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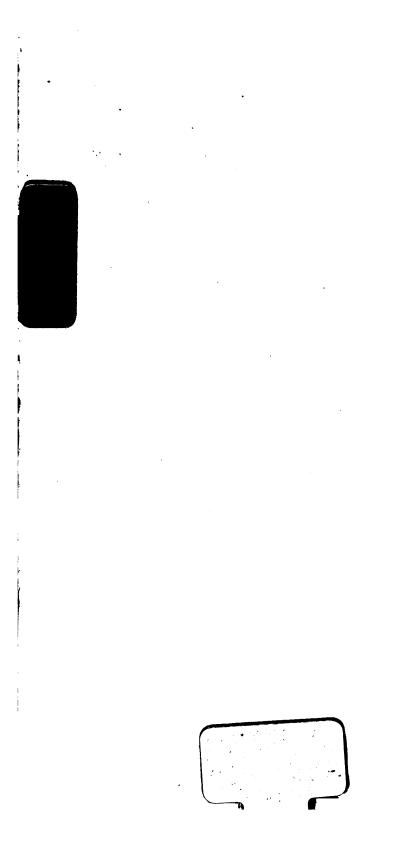
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HISTORICAL REFERENCES,

IN SUPPORT OF THE

REMARKS ON THE ERRONEOUS OPINIONS

ENTERTAINED RESPECTING THE

CATHOLIC RELIGION:

AND TO PROVE THAT ITS

PRINCIPLES ARE NOT ADVERSE TO CIVIL LIBERTY,

AND THAT

RELIGIOUS LIBERTY IS A CIVIL RIGHT,

BY HENRY HOWARD, ESQ.

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TO FRIEND AND FOE.

IT had been my intention to republish the remarks on the mistaken notions respecting our religion, which I had in the close of the year 1824, and beginning of 1825, addressed to the Editor of the Carlisle Journal, in answer to the numerous paragraphs of abuse and misrepresentation with which the public papers were filled;-but I shall now confine myself to some historical proofs on the political part of the subject; because since that period such weighty proofs have been given of the truth of the statements I then made respecting our doctrines, that it would be the most extreme presumption in me to do any thing further than to indicate and recommend to all whose minds are open to fairness, and who are desirous not to harbour false notions respecting their neighbours, that they should read the evidence of the Catholio Prelates and Clergy given in the Houses of Lords and Commons, and give still more particular attention to the Declarations of the Catholic Prelates of England and Ireland,

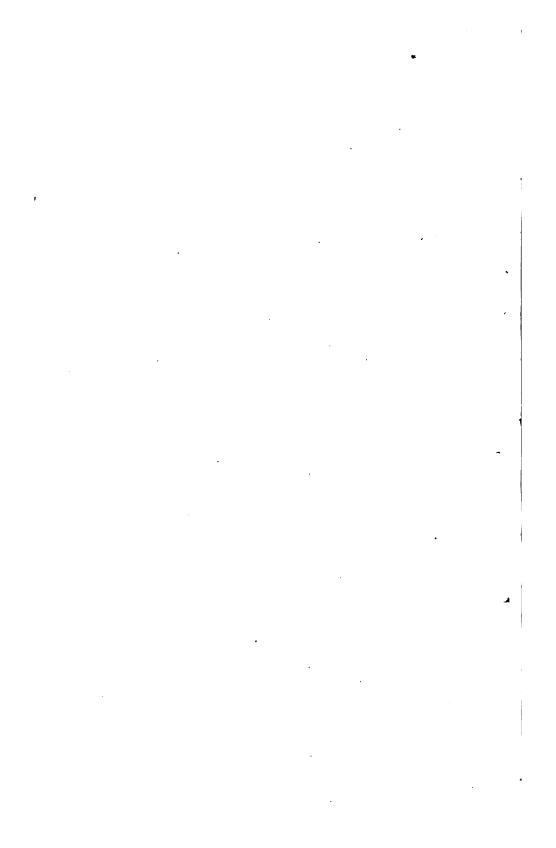
and the address of the Catholics of this County, which is founded on them.* I beg leave to premise, that firmly convinced of the truth of my own religion, I also believe that numbers of our opponents as well as of our friends are as sincere in the belief of theirs; and that they deem me in an error, in the same manner as I think them so. It is also my opinion that the disposition to favour civil and religious liberty is not exclusively adherent to any particular religious tenets; circumstances and events, the virtues and love of our country, or the forbearance of some individuals on one side, or crimes, ambition, or even the popularity or glorious achievements of others, have determined the fate of nations in this respect. Liberty has moved in a varying course; some who were the freest formerly are the least so now. As Catholies, we have been the longest on the stage, and therefore may show more actors, either good or bad: but what I write, and hope to prove, is that whatever may have been the actions of Catholic men, the disposition to slavish principles, or to persecution, is no part of the Catholic Religion. And if I attempt to show on the other side of the question, that there are proportionably, at least as many instances, on the part of Protestants, of their want of adherence to those principles which we ad-

^{*} I also recommend the admirable Essay on the Cathelic claims, addressed to the Earl of Liverpool, by Dr. James Doyle, the Cathelic Bishop of Kildars; and the writings of Archdesson Glever, of the Rev. Sydney Smith, and of other Protestant supporters of our cause. Those who wish to be well informed on what relates to the conduct of the Cathelics of the British empire, will be much gratified by reading their luminous history by Mr. Charles Butler. Bessuet's Exposition of Cathelic Doctrine, Berrington's Faith of Cathelics, and Milner's End of Controversy, will furnish all necessary information on doctrinal points. These Books may be had at Keating's, Booker's, Cudden's, and Andrews', in London; and at most of the Cathelic Booksellers in York, Birmingham, Presten, Manchester, Liverpool, Glasgow, Edinburgh, &c., &c.

mire, I declare that I do not do it invidiously, but only to take that argument for oppression out of their mouths, and to use my humble endeavour to show to both, the expediency and happy results of strict and entire adherence to the practice of religious liberty, as well as the blessings which follow civil freedom.

HENRY HOWARD.

Corby Castle, December, 1826.



The Principles of the Catholic Religion are not adverse to Civil Liberty.

"THE Catholic Religion,"(1) to use the words of the revered Prelates of Ireland, "established for promoting the happiness of mankind, to which order is essential, so far from interfering with the constituted authorities of any State, is reconcileable with every regular form which human governments may assume: Republics as well as Monarchies have thriven where it has been professed; and under its protecting influence, any combination of those forms may be secure." It neither ought to interfere or be interfered with by the state, and whatever exists or has been done to the contrary, arises from the policy or contrivance of men, as its dominion is purely and exclusively spiritual.* So far is it from truth, that

(1) See declaration, Jan. 25, 1826.

It is no doubt the duty of every good Government to preserve and enforce morality in the conduct of its subjects, and to punish the breach of it; but religion is too much the business of the soul, and of the interior man in his intercourse with his Creator, to authorize the interference of human policy. Most thinking christians will be of opinion that faith, doctrine, and the service of God, should not be made a state engine for the advancement of one set of men and the depression of another. In this view I have at all times considered the Test Laws, not only as an illiberal and intelerant abuse of power, but as a very indefensible application of a great religious mystery to prophane purposes and objects .has often been a question mooted by those religiously inclined, whether from the time of Constantine, or rather from that of Theodosius, the Christian Religion has lost or gained by its having been then made the religion of the state: and whether it is or is net advisable that a specific form of religion should be supported, and the means furnished to the subject, of attendance at divine service? I believe that a great majority would vote for the affirmative. In America this contribution is required, but is left to the choice of individuals as to their adherence to any particular form of worship, and we do not hear that this has caused any contentions :

PART L

the Catholic Religion is adverse to civil liberty, that I will show, by numerous and illustrious examples, chiefly taken from Protestant historians, that there is no country

in France the Government takes charge of it, at least for Protestants and Catholics. - But when the legislature has actually disposed of the matter, and appropriated certain public property to it, no individual has a right to act counter to such an appropriation : if he is left in possession of his independence in religious concerns; and not molested on their account, he has no right to complain, still less has he any right to disturb others in the possession of property which the law gives them, or to refuse to pay what is legally due from his own .- Property is the creature of the law, and any attempt to resume it, on the ground of confiscations, is absurd Where would such a retrospect stop? the Roand indefensible. manasseized on the property of the Britons; are we to pass our lives in the search for the right heirs of those Britons, or in endeavouring, in ultra equity, to restore the groves to the Druids? It is probable that not an acre in the Empire remains in the hands of the original owner. Saxons took possession of British estates; the Danes made free with them ;-the Normans scarce left a man in possession ;the partisans of one King confiscated the property of the adherents of the other ;-the civil wars of York and Lancaster afforded other ample confiscations; -there were confiscations by Cathelics, from Catholics; by Catholics, from Protestants; and by Protestants from Catholics.—Attainders, often most unjust, became ratified by legal possession. If opposite ideas were admitted, the whole country would become the theatre of rapine and bloodshed, and of the most irremediable confusion. - Whatever property, therefore, time and law have sanctioned, individuals would become rebels in the attempt to undo.-Catholics may indeed, in common with Protestants, and without blame, wish that some matters such as tithes were better regulated; and certainly the present system appears to embrace objects for tithing which were not formerly thought of, with greater refinement and severity in their collection than in Cathelic times, and without being subjected to the same church regulations, for charitable purposes; but this has nothing to do with either religion, and it is even much more the business of the Protestant than of the Catholic, because he has the larger share. I do not believe that among the Catholics, either clergy or laity, the idea or most distant thought of any resumption of church property has for a mement been entertained, and I am happy to see that both the Irish Prelates and the Cathelic Bishops of England have expressly disclaimed it. I have no doubt but that all of us would be ready to secure this still more particularly, and to prove on eath that we acquiesce in this disposition of the public property.-We have indeed already pledged ourselves to it by oath mere strongly than any other class of subjects.—But I cannot refrain from expressing that I do think it a hardship that the church of England should not be content with enjoying what the state has given them, without camity to us; nor do I see with what justice they establish themselves, generally, as a phalanx against our obtaining the restoration to the right in those things which cannot injure them. We are united to some by ties of relationship or connection, to many in private friendship, to more

that either does now or has enjoyed any freedom, that has not derived it from a foundation laid in Catholic times. As for our own constitution, if we extract from it what is of Catholic origin, we shall see how little remains to the Protestants' share, beyond some statutes to enforce the execution of pre-existing laws.* As Catholics, we claim, in England, a right to our liberties as the founders: we owe to our patriotic and most popular Kings, when in the plenitude of their power, the establishment of our municipal laws and free institutions.—Alfred (2) organized our common law, the trial by jury.

PART L

(2) Alfred died in 901. See Hume and all historians.

by respect and esteem, to all by one common interest in the permanent and peaceable enjoyment of property according to the laws; we would take up arms to defend the state in maintaining what it has settled; and why should the clergy force us, by setting themselves up as a barrier to our happiness, to wish them to be deprived of the power to injure us. We do not wish it now, and I hope would never attempt it; but it is natural to wish obstacles to be set aside. We are accused of being too much under the influence of our clergy, but as the Protestants in the great Catholic States have been restored to all their civil rights, we must infer that they have been liberal on those occasions; nor have we heard that they offered any opposition to the governments who have made those concessions: it would, undoubtedly, be very desirable to the Cathelic here to experience the same liberality or forbearance.

 The Habras Corpus Acr and the Petition of Right and Declaration of Rights, as the debates of the times will show, are nothing mere than declaratory laws, supporting by statute that which was before the known law of the realm. - The act to prevent the Judges being removable at pleasure, of the 13th of Wm. III. was certainly a very great good then obtained which had been left short at the Revolution .- Counsel allowed in cases of high treason, and greater decision as to the rights of juries, appear to me to be the principal improvements of more modern times.-I admit that our most valuable institutions have been more permanently secured by the Revolution, and under the Protestant Government of this country, but it is also true that the great downfal of those free institutions, and the most effectual steps taken towards arbitrary sway, were also made since the Protestant religion became that of the country.-When it is affectedly asserted, that danger might arise to our constitutional rights by the admission of Catholics to the free enjoyment of them; I would ask any one, what steps a Catholic could take against our liberties, that he would not know and feel were in direct opposition to all the institutions of his Catholic ancestors? See Blackstone's beautiful eulogium on our ancient constitution and municipal laws, vol. I. c. l. and vol. III. pages 120 and 123; and Grey's debates on the Petition of Right, and Habeas Corpus Act; also Coke's Institutes.—Fortescue de laudibus Legum Anglise, &c. &c.

and the subdivision, internal polity, and jurisprudence of our counties, the government of those is nearly republican and forms the great security and bulwark of our liberties: to him and to our Saxon ancestors we are indebted for that admirable system of election,* of requisition and of obligation, to perform gratuitously and under responsibility, such offices as are required in a civilized state of society. By their judicious foresight and generous nurture, the seed of genuine liberty and of free law was so deeply set in this soil, that, notwithstanding the barbarous state of the world, the conquests of the country by the Danes and by the Normans, and our civil wars and disputed successions, the plant could never be entirely smothered or rooted out, but ever burst forth, in calmer times; and though sometimes cut down and often stunted, withstood all storms and grew into that glorious civic Oak, which now protects and shadows the Protestants of this country.

(3) John, A. 1215. Three centuries later than Alfred, our Barons, with all ranks of the people, headed by Archbishop Langton and the Clergy, compelled King John, (3) though supported by the Pope of that day, to confirm those ancient laws and rights and sign the great Charter. † They stood to it afterwards notwithstanding the devastation of the whole country, the blood that was shed and the tortures that were inflicted by the foreign mercenaries introduced by the King, till they were reduced to the desperate remedy of calling in the French; but this by

[•] It will be recollected that even the Sheriffs and the Justices of the Peace were elected by the freeholders, as the Coroner now is, till the close of the reign of Edward II., and when we reflect that the Lords Lieutenant of Counties formed no part of the constitution and were only introduced by Edward VI., we may judge how much more democratic our internal government then was.

[†] By the most tenasious perseverance, this famous record of our liberties, aided by every sacred rite that could be devised to give it force, permanence, and respect, was confirmed in thirty-two different Parliaments, from anno 1215 to 1300.—See Coke, Hume, Blackstone &c.

the death of the tyrant, and the concessions of his successor, was fortunately never carried into full effect.—
Had these Catholics no feeling for civil liberty? did they not know how to distinguish between the tenets and duties of their religion, and the arrogant pretensions of Innocent III.?* Do not our hearts beat high and join with those men in their shouts of exultation on the plains of Runnimede? Yet were they to return to life, that exultation would now give way to the forlorn feelings of the prescribed.†

The attachment of the country to its free laws, and the estimation in which they were held, as well as the resolute determination to maintain them, were again most strongly evinced in the Parliament held at Merton, (4) when the proposal was made to the Barons that they should adopt part of the civil law, they with one voice exclaimed, "Nolumus leges Angliæ, mutari!"—We will not suffer any alteration in the laws of England.

EDWARD I,[‡] though an oppressor of Scotland and Wales, was a truly patriotic King to England. He freely and repeatedly confirmed the Great Charter,⁽⁵⁾ and acknowledged, by statute, that its provisions are the

PART L

(4) Henry III. A. 1235. Parl. History.

(5) A. 1276— 1297—8—8— 1500. Parl. History.

[•] It is singular that though all the writers of the time belonged to the clergy, not one word of approbation is given either to King John or the Pope by any of them, netwithstanding his alliance with the holy see.

[†] In the reign of Edward III., (1366,) Urban V. demanded the arrears of the sum granted by King John to the Pope as an acknowledgment that he held the crown in fealty of the holy see. The King referred the subject to Parliament, and the Prelates having, by permission, consulted in private, returned for answer—"That neither King John, nor any other person, could subject the kingdom to another power, without the consent of the nation." This was readily adopted by the King, the temporal Lords, and the Commons, and the question was settled for ever.—See Parliamentary Rolls, 11, 289, 295; and Parliamentary History.

[‡] Edward I. ie by Blackstone called the English Justinian;—quoting Sir Matthew Hale, he says, "that more was done in the first thirteen years of his reign to settle and establish the distributive justice of the kingdom, than in all the ages since that time put together." Yet if this King, or Alfred, Edward III., or Henry V., in whom we glory, were restored to us, they could not even be tide-waiters.

ancient common law of the land; he arranged the representation of the people in Parliament, in a manner much more general and democratic than we now have it; and in the fulness of his power, he passed that most important statute *De tallugio non concedendo*, ⁽⁶⁾ by which all taxation was made illegal that was not granted by Parliament.*—In this King's reign, also, he approving

(6) A. 1297. Parl, History.

> * If the merits of religious principles and tenets are to be appreciated by the character and conduct in worldly matters of those who profess them; then might a Catholic, in answer, claim as his own most of the heroes who are favourites in our story, and live in the minds of our people. Some of these were men of the most exemplary piety.—He might say to the Protestant, find me a match for greater firmness in adversity, more diligent thought and more research into the human mind for the means and purpose of establishing the permanent happiness of his country, than our Alfred. Show me Sovereigns, with such power as was possessed by Edward I. & III., using it, not to acquire greater authority, but to curb the influence of the Crown.—Produce me a warrior more generous minded to friend and foe than the Black Prince, or one more devoted to the liberties and independence of his country than Bruce; more ready to sacrifice every thing to it than Wallace .-Mark out to me a more firm, unbending, and uncompromising Judge than Sir William Gascoigne; a more constitutional Lawyer than Sir John Forteseue; a more conscientious Chancellor than Sir Thomas More; sounder English Lawyers than Bracton Fleta or Plowden: (7) Prelates more true to their country, and greater supporters of its liberty, than Langton with his clergy, and Grosthead; or more zealous promoters of education than Wickam, Chickeley, Wainfleet, or the Catholic founders of twenty-one out of twenty-five Colleges in Oxford, of thirteen out of sixteen in Cambridge, (besides ninety other Colleges, of which nine in London were suppressed by Henry VIII.,) with Eton, Winchester, and innumerable Free-Schools, of which many have, since the Reformation, been suffered to go into disuse and decay: from these indeed all Catholics, even the families of the founders, are now excluded by religious tests; and to complete the injustice, are we charged with being unfavourable to education : by penal laws we were prohibited from having schools or schoolmasters, yet are we taxed with the ignorance of which these penal laws were the This is indeed of a piece with the accusation of a disregard to oaths, when we are excluded from the rights we claim, by the oaths which our enemies have imposed :- 'tis the oppressed for principle, accused by the oppressor of the want of it; -the executioner upbraiding the wretch on the rack with lack of feeling. But to resume, it will be found that whoever uses such arguments against Catholics, spends his time in belying the reputation of his country, and in putting down that which, in our history, excites the pride of every Englishman, distinguishes us in the scale of nations, and is the theme of our exultation when we compare ourselves with the rest of the world.

(7) See Dugdale's, and see Speed's list of Founders, p. 1043, &c.

N. B. The Divinity School and Library, at Oxford; and the Schools of Philosophy, Divinity, Arts, and new Library, at Cambridge; were also founded by Catholics.—See Speed, page 1054 and 1073,

the resolute language that was used, the whole of the Barons, with the approbation of the Commons, signed the renowned remonstrance to the Pope, in which they declare that they will maintain their ancient laws and customs, and not suffer the King, even if he were willing, to do or attempt any thing against them.

EDWARD III., at the zenith of his glory, without any petition to him from his subjects, passed the statute ⁽⁷⁾ declaring what offences shall be judged treason, which has been the great barrier betwixt the Kings o England and their subjects; and also the statute, that Parliaments should be held annually.* He confirmed the Great Charter, and, in unison with the prelacy and laity, passed the statute of provisors against the indefensible encroachments of the See of Rome.

Whoever reads the Parliamentary History from the reign of King John to the time of our disastrous civil wars between the houses of York and Lancaster, on account of the succession to the crown, will see with what a different spirit and feeling for liberty the whole Parliament and country were actuated, when compared with their slavish obsequiousness from the reign of Henry VIII. to that of Charles I.;† and had not the long continuance of those wars sunk the spirit, shed the best blood of the

PART I.

(7) Edw. III. A. 1351. Park History, and Coke's Institutes, fol. 27.

^{*} On examination of the Rolls of Parliament; it will be found that, until the civil wars of York and Lancaster, Parliaments were held yearly, excepting when the Kings were absent in the wars with France.

[†] CHIRF JUSTICE FORTESCUE, afterwards Chancellor, in his address to Henry VI., his pupil, says: "The King of England cannot at his will alter the laws of his Kingdom—or impose taxes or other burthens upon them without their consent;" and he adds, for the protection of the law and of the persons and property of his subjects, he is raised to be a King, and he possesses this power as derived from the people." These are true Whig principles.—Under the Tudors, and to the time of Charles I., the passage of Tacitus, "Amissa virtute pariter et libertate," will apply to the whole country. Bracton also says, the King is made and chosen to do justice to all.—The same language was long before held in the return of the jury appointed by William the Conqueror, to report to him the laws and customs of England.—See Fortescae de laudibus Legum Anglise, Bracton, lib. 3, ch. 9, and Wilkins.

country, and brought about misrule, it is not probable that we should ever have had any serious struggle for the preservation or recovery of the liberties and free institutions which our ancestors had obtained. Neither the savage Tudors, nor the selfish Stuarts, could have touched them; and more enlightened times would have brought them to perfection.*

As to persecution for religious opinions, it was no part of the common law or of the original constitution of this country. Hume states, that to the time of Henry IV., "there was no law in England by which the secular arm was empowered to support orthodoxy. Ecclesiastical censures were the only resource, and it is probable that things would have so remained, had not the Lollards mixed politics and a spirit of insurrection with their religious tenets. (8) They were guilty of that which perhaps in these days would also be deemed a very heretical doctrine; they preached that the clergy ought to be dispossessed of their property, and they exhorted the laity to pay no tithes: this may account for the severity with which they were treated, and for the passing of the very indefensible act for the burning of heretics. Bishop of London, (9) who had summoned Wycliffe, was insulted and very harshly treated by John of Gaunt, Duke of Lancaster, but the citizens of London arose and united in one general cry that their Bishops should not be so used, and they declared that they would stand by him to the last breath: but when the Bishop, availing himself of this spirit, attempted to imprison Wycliffe for heretical opinions, he received a peremptory order from the Duke not to proceed to imprisonment. The Duke

(8) See Hume, 1413—1414; and Rolls of Parliamt. doand Rymer's,

(9) Temp. Edw. 1II. See Gilpin's life of Wycliffe from page 20 to 50.

[•] MICHELE, the Ambassador from Venice, in 1557, in his report to his Republic on the state of England, remarks, "that formerly the King might be considered solely as the political and civil head of the nation; but that now the power of the throne has so much reduced that of the Parliament, that little more remains of their authority, and of the liberty which the nation possessed, than the ancient forms belonging to it." Relatione de M. Gio. Michele, &c. Lansdowne Manuscripts.

told him, "that to imprison a man for holding an opinion could not be justified by the laws of England, and that if he proceeded to any such extremity, he must abide by the consequences; and when he and other Bishops, some time after, were for so proceeding, the same people both within doors and without grew very tumultuous, crying aloud, they would suffer no violence to be done to Wycliffe." See Gilpin's Lives of the Reformers;-Hume, &c. Wycliffe died in quiet possession of his I do not, however, find that living, at Lutterworth. there were many victims of this innovating statute during the reigns of Henry IV. and Henry V., and from that time the law appears to have remained dormant, till it was revived by Henry VIII., who made a most impartial use of it, by burning both Catholics and Protestants :-and several Anabaptists were burnt under Edward VI. None have more reason, than Catholics, to deplore the cruel use which Mary made of this statute, as the re-action upon them has continued, in various degrees, for nearly three centuries. Some persons also suffered under it in the reign of Queen Elizabeth, others under James I., nor was it finally repealed till the 29th of Charles II. But other laws still more sanguinary and oppressive owed their origin to these execrable times: the burning of heretics, when in disuse, was abundantly replaced by a more sweeping and minute code of penal laws for non-conformity to the various religions of the state,(10) accompanied by the most refined system of oaths and tests that ever were devised to scrutinize men's minds, dive into their thoughts, and probe their consciences, for the purpose of forcing them to become their own accusers, with a train of punishments adapted to every degree of recusancy, non-conformity, or new fangled delinquency, from death, banishment, imprisonment, confiscation, and fines, down to exclusions and privations; all of them wholly inconsistent with the true spirit and ancient principles of our constitution, and subversive

PART I.

(10) During the reigns of Henry VIII., Eliz., James I., Chas. I. & II., William III., Anne, Geo. I., and Geo. 11. See Par. His.; and Parnell's penal laws.

both of civil liberty and the professed rights of conscience.

In the reign of Henry VII. some progress was made by the House of Commons, but the deterioration of the administration of justice continued its sanguinary course. and as the civil wars had already increased the power of the crown, so the struggle in religion, which divided the country, completed the subjugation of the people, and became the means of erecting a government nearly absolute. We almost ceased to be Englishmen; every thing that was great and good in our constitution was either frittered away and perverted, or entirely set aside. Fortunately for us, the pettifogging theoretical tyranny of James I., united to his timid and trifling character. brought, with quieter times, the recollection of our privileges and sounder institutions, and gradually restored to the goaded nation, its former spirit and feelings.

Having, as Catholics, been accused of entertaining principles unfavourable to freedom, it cannot be deemed unfair in us to probe this question a little deeper, and to inquire what was done in England, from the Reformation to the time of Charles I., (11) that was in the smallest degree favourable to the cause of liberty, either civil or religious? On the contrary, great additions were made to the law of treason, (12) and its interpretation made so constructive as to embrace every thing the court wished to comprise within its bloody bounds.*

(11) A period of nearly 100 years.

(12)principally Henry VIII. & Elizabeth. See Hume, &c.

> 22nd Henry VIII., poisoning was made treason, the offenders to be boiled to death: see Foster's Crewn Law, page 192. 26th Henry VIII., it was also made treason to speak evil against the King, Queen, or his heirs. At one time it was made treason to dispute, and afterwards treason to maintain the validity of the marriage of Anne Boleyn, or the legitimacy of Elizabeth her daughter, by words, writing, printing, or any exterior act, directly or indirectly. It was also made treason to say that Henry VIII. had been married to Anne of Cleves. Hollingshed informs us, that in the reign of Henry VIII. seventy-two thousand criminals were executed; Jack Ketch must then have been a very active citizen, indeed a very rich one, had he got nothing more than their shoes; he became an important member of the government, and, according to the account we have of the executions during this and the three following reigns, he often partock of the mild disposition of its principles.

The Star-Chamber, first established by Henry VII., acquired an extended and most arbitrary jurisdiction. (13)

The Court of High Commission, which, as Hume says, "was a real Inquisition, attended with all the iniquities as well as cruelties inseparable from that horrid tribunal" was erected by Elizabeth. (14)

The introduction and frequent use of the torture (15) to obtain evidence, and the courts using that alleged extorted testimony, without its being allowed to the accused to have those witnesses confronted face to face, for the purpose of cross-examination, to which they were entitled by the statute.*

Trials of peers made by a selection and packed commission, instead of trials by the whole House. (16)

Bills of attainder by Parliament (17) and sentences passed and executed, without either trial, examination of witnesses, or even knowledge imparted to the accused of the grounds of their accusation.

(16) Hen VIII.

* SER JOHN FORTESCUE, Chancellor and Chief Justice in the time of Henry VI., addressing the King, his former pupil, says, "The common law knew of no such engine of power as the rack or terture to furnish the Crown with evidence out of the prisoner's mouth against himself or other people." This, therefore, does not belong to Catholic times.—See Fortescue de laudibus Legum Anglise, and Foster's Crown Law, p. 224.—Lord Coke also says that it was "directly against law;" (3rd Institute;) and the Judges, in the time of Charles I., unanimously declared it to be so. - Lord Burleigh, in his Execution of Justice, defends the practice, but says that "The wardens, whose office and art it is to handle the rack, were specially charged to use it in a charitable manner." Campian, however, when brought to trial, required assistance to enable himto raise up his dislocated right arm when he pleaded not guilty. -See his trial, and remark that the torture was applied not only before conviction, but often long before trial, and also without bringing the sufferer to any trial, whilst our laws deem all persons so situated innocent: thus using it as a means of exterting answers to be turned into accusations "against themselves or other people." In the reign of Queen Elizabeth, a person called Norton, had a regular appointment under Government, by the name of Rackmaster. See manuscript Life of the Earl of Arundel.—Privy Councillors attended and directed its use, and were also regularly deputed to attend the execution of priests and other Catholics who were often quartered alive. Daniel Barbaro, in the report he makes to the Senate of Venice, on his return from his embassy to Edward VI., in 1551, states, also, that in England torture is illegal. - See Lansdowne Manuscripts.

PART L. (13)Hen Vill. Mary, Eliz., James L.

(14/Elis. 1584. Hume, p. 579. (15) Elis. See Howell's State

Trials : Ellis's

original letters, &c.

(16)Hen: VIII. Ed. VI., Elis., See Howell. (17)Hen. VIII. 1526—1539— 1546; Ed. VI., Eliz ; Jas. I. State Trials. Barnett, dec.

Crimes created by retrospective laws, and persons attainted for them; thus the Duchess of Norfolk was attainted "for having concealed the vicious life of Queen Catharine Howard before marriage, her guilt was then first created, and she was, in fact, punished for having eyes, ears, and a granddaughter." (18)

(IR) 33 Hes. VIII.—Lord Auckland's Penal Laws, page 305.

Persons executed when the crime imputed was not capital—which was the case of Sir Thomas More and others.

/19, 20) Hen. VIII. See State Trials; Burnet, Ellis's orig. letters. & 32 Hen. VIII.

Others starved to death in prison without trial; (20) viz. nine Carthusians.—See Burnet's and Ellis's letters, and State trials.

Juries fined, and even threatened with death, for not bringing verdicts according to the behest of the court and of most iniquitous judges, generally parties against the prisoners, and totally disregarding all rules of evidence, and suppressing it when favourable to the accused. In many cases it seems that the alternative left to a juryman, was either to condemn, or take the place of the culprit; and whatever person of rank kept his head on his shoulders, owed it entirely to good luck, as at the time of his birth it was twenty to one that he would lose it; nor was it almost possible that a peer, a member of the House of Commons, or a judge, could escape becoming the accomplice to some legal murder.

(21) Hen VIII. Ed. VI, Mary, Elis., Jas. I., Chas. I. & II. State trials. &c. of those neigns.

The force of law given by Parliament to the King's Proclamation. (22)

(23) 21st Henry VIII.

Confiscations for leaving the kingdom as authorized by the Great Charter. (23)

(23) Eliz. See Strype, p. 102-(74) 23rd Hen. VIM. Ist James I.

Witchcraft made punishable by death. (21)

The use of martial law extended to civil cases. (25)
Monopolies enforced. (26)

(25, 26, 27) Elis. See Hume.

Imprisonments without any cause assigned. (27)

(28) 23rd Hen. VIII. Ist Philip & Mary. 5th klis. See Blackstone, wal. L. p. 166. Gipsies, or those living with them one month, made punishable with death. (28)

Soldiers or sailors wandering about the country with-

out a pass for more than fifteen days, and vagrants made by statute 39 Eliz. punishable as felons. (29)

Persecution turned into an impure source of revenue to the crown. (30)

Laws making seditious words a capital offence. (51)

The dishonest, oppressive, and sweeping confiscation of whole counties in Ireland, (32) without any regard to the known laws of property, or any pretence of crime, and the imprisonment with heavy fines on the sheriff and jury of the County of Galway, (32) for not finding for the Crown.* The creation of a new and oppressive court of Wards there; and the conduct of England throughout during the Protestant ascendancy, both towards Ireland and in its internal government. The partial summons to Parliament of one-half only of the counties in Ireland. (33)

The arbitrary exaction of benevolences, and setting aside the act of Edward I. in respect of taxation, as well as that of Edward III. for annual Parliaments; and the freedom of Parliament frequently violated.

The enactment of new, cruel, and vicious laws of persecution for religious opinions, some of them most revolting to morality and human nature. (35)

This was much the same as if a Grand Jury for the county of York, summoned by the Sheriff, should now bring in their verdict, that all the property there, belongs to the Crown, notwithstanding the longest possession, because the owners could not produce their specific grants and patents from the King.

† QUEEN ELIZABETH expressly prehibited Parliament from meddling with state matters or ecclesiastical causes; and she openly sent the members to prison who dared to transgress her Imperial Edicts in these particulars." Hume's Elizabeth, chap. viii.,— Heylin writes, and certainly rather to praise than find fault, "One Morrice, attorney for the Duchy of Lancaster, having effered a Bill to the House of Commons, for restraining the Ecclesiastical Courts in much narrower bounds—(viz. the Court of High Commission). She first commanded Coke, the Speaker (afterwards Chief successively to either Bench) not to admit of any such seditious Bills for the time to come: caused the person of the said attorney to be seized upon, then deprived him of his place in the Duchy Court, disabled him from practising as a common lawyer, and finally shut him up in Tutbury Castle, where he continued till death. See Heylin's Religio restaurata, 35 Eliz. in the preface.

PART I. (29)Blackstone vol. I. p. 165.

(30) Eliz. and James I. (31) 21st Hen. VIII.

(32) James I. and Charles I. See Leland.

(33) Charles I. Leland.

(35) See Patnell's Penal Laws, from Hen. VIII. to George H.

The savage barbarity in the execution of those laws in England, Scotland, and Ireland, against Protestants, Catholics, Presbyterians, Puritans, Quakers, Cameronians, and all Dissenters, all of which were adopted, enacted, and practised from the time of Henry VIII., and some of them in slighter shades continued to this day. (36)

(56) Hen Vill. to George II.

DURING THE REIGN OF EDWARD VI., when the Reformers had every thing their own way, we might have expected, if their claim to true principles of civil and religious liberty be merited, that much would have been done under their auspices, and that the administration of the laws, respect to public and private property and the improvement of education and of the literature of the country, would have been diligently attended to. But it happened then as it has done since, that though the opinions of Cranmer, Latimer, Ridley, Hooper, Bucer, Peter Martyr, &c., then the leading men, were founded on the right of individuals to religious liberty, yet their practice was complete intolerance and persecution, A show, indeed, of some return to the principles of our constitution, was made at the beginning of the reign, by the repeal of the motley list of new-fangled treasons invented by Henry VIII., of his six bloody articles, and of the statute which gave the force of law to the royal proclamations;(37), but they soon relapsed into the same tyrannical course. The denial of the King's supremacy (38) was made treason; the act of uniformity of worship, (59) which the Bishops declared was made " with the aid of the Holy Ghost," was enforced by fines, and finally by imprisonment for life; and the practice invented by Lord Cromwell of attainting and executing persons by act of Parliament, without trial, was again had recourse to. The High Admiral, Sir Thomas Seymour, (40) uncle to the King, was, on charges which now appear frivolous, executed without having been allowed any trial, or to have the witnesses

(37) 1547.

(38) I552. (39) I548. S Parl. Histor page 234.

(40) Hayward vol. 1I., p. 34 Parl. History. State Trials, page 506, against him examined face to face; if the story in the State Trials be correct, he was first put to the rack, and then, at the suggestion of Latimer, condemned and executed.*

PART I. (41) Howell's State Trials, page 505, \$c.

Soon after this death, his brother and accuser, the Protector Somerset, experienced the same fate; apparently with still greater injustice; and an act was passed to disinherit his infant daughter and two other persons, because the law did not reach them. Illegal imprisonments were continued; elections openly interfered with, even by letters written by the King. (43) The property which had been seized by the country from the colleges and other foundations was squandered away,(43) and the ancient public libraries that had been founded by Humphrey Duke of Gloucester, Angerville Bishop of Durham, and Cothum Bishop of Winchester, were destroyed. The indefensible statutes against heresy, were again carried into execution by a commission of inquisition, and several Anabaptists and Unitarians prosecuted and punished, and two of them, of whom one was a woman were burnt alive.+(44)

(42) Par. His. page 266.

(43) Heylin, Collin, vol 2, Camden.

(44) Stowe, 105.

Whoever wishes a sample of the most uncharitable sermons ever uttered, must read those preached by Latimer, before the King, on the execution of his Uncle, where he endeavours not only to prove the justice of his death, but also the extreme probability of his being damned. Howell, page 506.

[†] In these commissions, ad inquizendum super haretica pravitate, Cranmer is appointed Chief Inquisitor, and Ridley, Latimer, Coverdale, Cecil and Matthew Parker, Commissioners, the wording would even be satisfactory to an Inquisitor of the Old Spanish School.—They are to make inquiry "respecting all articles of heresy whatever, and examine all persons suspected, detected, demounced as accused of heresy or error in Christian doctrine, and to receive and admit all witnesses or other modes of proof whatever, and to use all other means, medes, and forms the most efficacious to extract the truth in a plain and summary manner, without noise, or the appearance of judicial forms;" and finishes by directing that the obstinate shall be delivered over to the secular arm, " notwithstanding that any accusation or indictment against such persons shall not have been proceeded in, or any other statutes or ordinances in our Parliament to the contrary declared and provided, in which perhaps greater solemnity, and more circumstantial facts, may be required to carry such matters into effect." See Rymer, vol. xv, page 181 and page 250.

(45) See letters Howell; State Trials, 1500— 1501, and Ellis's original letters.

Nothing can prove more strongly the principles of intolerance that prevailed among those divines who were appointed to instruct the young King, than the persecution which his sister underwent. She was deprived of the exercise of her religion, her servants imprisoned, her chaplains dismissed, herself threatened with coercion by the council; (45) and the regret expressed by Edward, (then under 14 years of age), that it should not be deemed prudent, by them, to put the laws in force against a sister 32 years of age, for what he called her idolatry, is a sufficient proof of the manner he was instructed.— By those laws, Mary might have been brought to the seaffold. Lastly, the Tudor-like assuming to dispose of the crown, without the consent and contrary to the enactment by Parliament, is not very constitutional; and this changing the order of succession to the throne, both in the persons of Mary and of Elizabeth, of which one at least must have been admitted to be legitimate, is another proof of the arrogance of this young King's council, which no doubt greatly contributed to the dreadful re-action of the ensuing reign.

I will not enter into the remorseless cruelties which disgraced Mary's and Elizabeth's reigns: the Protestant and Catholic historians are full of the disgusting details; each seeing the mote and overlooking the beam in the other's eye;—in matters of persecution those two ladies may fairly pair off.

At this period, when the religious opinions in this country were so much divided, both Queens, under very great provocation, adopted the councils of the most violent, and looked to persecution for that personal security and stability to their thrones which they would have found in religious liberty.—Mary, no doubt, attributed to the leaders of the Reformers, all the miseries she had experienced from her infancy;—her mother's degradation, her birth stigmatized, her harsh treatment

by her father,* and, when restored by him to her station, the personal persecution of her brother and his council; her exclusion by his will from the succession, and the attempt by arms, preachings, and writings of the Reformers, to prevent her accession; and afterwards the successive insurrections of the Duke of Suffolk, Sir Thomas Wyatt, and others, and the outrages to her religion, before any persecution had been decided on,—were not likely to create much mildness in a Tudor breast.

PART L.

* In addition to her harsh treatment by Henry VIII., Michele states that she was at one time obliged to serve Anne Boleyn as a mistress.—(Come Padrona.)

† Heylin, who wrote his history in praise of the Reformation, states, however, many facts which a less conscientious historian would have suppressed, and he has said more to palliate the conduct of Mary, than, in my opinion, she deserves. He states that she could not but attribute the misfortunes and rejection of her mother to the Reformers, as well as her own persecution under Edward VI., and his subsequent will, which deprived her of the throne, and the insurrections that followed. He relates, that "Philip on his marriage, prevailed with the Queen to discharge all such prisoners as stood committed in the Tower, either for matter of religion or on account of Wyatt's rebellion-and took great pains for enlarging the enlargement of the Earl of Devonshire and the Princess Elizabeth, committed on suspicion of having had a hand in Wyatt's rebellion." He goes on and relates many excesses, acts of violence against the priests exercising their functions, sermons against the Queen praying for her death; as well as the writings of Goodman, the friend of Knox, in defence and in praise of Wyatt's insurrection; on which he observes, " It cannot be denied but that the restitution of the reformed religion was the matter principally aimed at in this rebellion." He attributes these excesses to the Zuinglians, (for he is not inclined to tolerate other Protestants than those of the Church of England,) and writes, " such were the madness of those people; but the orthodox and sober Protestant shall be brought to a reckoning, and pay dearly for the follies of those men, which it was not in their power to The governors of the church, exasperated at their provocations, and the Queen charging Wyatt's rebellion to the Protestant party,-agreed to the reviving of the ancient statutes (46) for the severe punishments of obdurate heretics even to death itself. the great Bishops of the time were not alike minded for the putting them into execution. The Lord Cardinal was clearly of opinion, that they should rest themselves satisfied with the restitution of their own religion, and that the said statute should be held forth for a terror only, but that no open persecution should be raised upon them; following therein, as he affirmed, the counsel sent unto the Queen by Charles the Emperor, at her first coming to the crown, by whom she was advised, to create no trouble unto any man for matter of conscience, but to be warned unto the contrary by his example, who, by endeavouring to compel others to his own religion, had

Page 209.

Page 21%

(46) 3rd Mary

It may also be said of Mary, though the cruel use she made of the indefensible law respecting heresy should never be palliated, that she did not invent new laws for proscription, but abolished all the new treasons and felonies which her father and brother had enacted, (and which were revived and newly modelled by her sister,) that she summoned Parliaments annually, paid more respect to its principles,* and appears to have governed more according to the ancient constitutional laws than any of her blood; but bad actions are not to be justified by bad principles, or cruelty by revenge.

Let any one contemplate the miseries and the slavery of mind to which the sovereigns of this country attempted to reduce their subjects, by enforcing uniformity in religious opinions, during the short space of 23 years,

tired and spent himself in vain, and purchased nothing by it but his own dishenour." On the subject of the execution of the Lady Jane Grey, Heylin also palliates the conduct of Mary, and writes, " The Queen finding she was to expect no peace or quiet as long as the Lady Jane was suffered to remain alive, caused her to be openly executed on the 12th of February next following." But as the Lady Jane had, to the knewledge of Mary, been drawn into the scrape by the will of her brother appointing her Queen, without any participation on her part, and had reluctantly complied, and readily given it up, and had now for nine months been in prison, without in any way being a party to the new troubles,-this was, in my mind, under all the circumstances and after such a respite, a very hardhearted and unworthy act. However the subsequent conduct of Elizabeth to Catharine Grey, (47) Lady Jane's sister, who by Edward's will was the next to succeed her, is even a less justifiable exertion of Tudor policy. She was first married and diverced from the son of the Earl of Perabroke, in fear of Elizabeth, before she could bear children; and when she afterwards privately married the Earl of Hertford, she was committed to the Tower without trial, where she died after nine years' imprisonment.

(47) Aspen's Genealogies.

The great lawyer, Edmund Plowden, a zealous Catholic, of whom Camden observes that he had scarce a rival in his skill in the law, or in the integrity of his life, was one of the seceders from Parliament on account of the violent proceedings of Mary and her ministry, and who traversed the indictment preferred against them for so doing. Among the twenty-six who were parties to this secession, I find the names of several others whose families appear to have remained Catholics to this day.—See Coke's Institutes; and Parliamentary History of Mary. By the same history, it appears that we owe the system of the continuation of tithes to a committee, of which Sir Wm. Cecil (Lord Burleigh) was the chief director.

and they will scarcely think that any tyranny could equal it in its fatal and revolting consequences. 1535, nearly the whole population was Catholic: next year all were to adopt a religion of Henry the Eighth's own arranging, under the severest penalties: in 1547, under Edward VI., they were subject to other inflictions unless they became Protestants: in 1553, Mary's reign followed, and they were either to be Catholics or to be burnt: in 1558, by a new course of bloody cruelties, under Elizabeth, they were compelled to belong to the Church of England:—all this might happen, even to a short-lived person born about the beginning of Henry the Eighth's reign. I pass over the troubles which subsequently agitated the nation, partly on the same account, during the reigns of Charles I. and his successors. The conclusion drawn from all past experience must be, that whatever Government determines on compelling its subjects to uniformity of religion, must also make up its mind and conscience to cruelty and tyranny, and never expect one quiet moment: persecution and parrying its dangerous effects become the chief occupation of such a government, a great part of its subjects are made miserable, and the progress of all national improvements and ameliorations is impeded. Such ought not to be the course and progress of a well organized state. In our own widely extended empire, including the Gentoo, Mahometan, Canadian, Maltese, Ionian, and all the religions that exist, surely the good-will and confidence of the subject, is an object: it is policy to be liberal.

To proceed to the reign of QUEEN ELIZABETH.—Immediately on the death of Mary, Nicholas Heath, Archbishop of York, and Chancellor, summoned the Lords and Commons; she was proclaimed, and her accession greeted by the acclamations of all parties: of her title there could be no doubt, it had been decided by the statute of the 31st Henry VIII., and she had been acknowledged by her sister as her heir, who sent to her her

PART I.

ELIZABETH Nov. 1550.

jewels just before her death. One of the first steps the Queen took, was to notify her succession "by hereditary right and the consent of the nation," to foreign powers; and Sir Edward Carne, the English Ambassador at Rome, had her directions to acquaint the Pope that she had succeeded to her sister, and had "determined to offer no violence to the consciences of her subjects, whatever might be their religious creeds." Most unfortunately, Paul IV., a man of haughty and aspiring disposition, who was persuaded of the validity of those claims which had occasioned so much mischief to the world, was still alive; and though he had, in justice, no more business with Elizabeth's genealogy, and the proceedings of the English nation, than St. Peter had with Tiberius, he returned, at the instigation of the French Ambassador, the meddling and unjustifiable answer-" That he was unable to comprehend the hereditary right of one not born in wedlock; that the Scotch Queen claimed the crown as the nearest legitimate descendant of Henry . VII., but that if Elizabeth were willing to submit to his arbitration, she should receive every indulgence from him which justice would allow." It was in vain that Pius IV., who succeeded to the Tiara very soon after, attempted to retrace these steps so offensive to her and the nation; it was too late, and the die was cast. From this deplorable and unjustifiable provocation, all the woes felt by the Catholics to this day derive their source, and to the support of those claims Mary Queen of Scots also owed her misfortunes. I do not believe that Elizabeth was deluded by the same inconsiderate zeal as her sister, though she had imbibed a partiality to the Reformers from her infancy; but this most condemnable provocation decided her conduct, and riveted her by interest, wounded feelings, and self-defence, to the Reformation; it infused into her mind suspicion and doubts respecting the allegiance of her Catholic subjects, and by their gradual workings, fixed in it a rooted hatred to their

religion, and a determination to extirpate it. Had this happened etherwise, though it appears likely that she would have established the Church of England, she would also probably, and in good policy, have adhered to her promise,—and Catholics would have been left in the undisturbed exercise of their religion, and the possession of their civic rights.—Elizabeth, though she experienced the steady adherence of her Catholic subjects, now proceeded to add one penal law to another, and these in their re-action brought plots and insurrections against her; the still more condemnable Bull of Pius V.*

 It appears to me that in proportion that a Catholic is deeply convinced of the truth of his faith, and attached to his religion, he will lament and condemn the conduct of those Popes who, in the darker ages, either guided by their ambition and desire of power, or deluded by false and unfounded notions, claimed a right to interfere in temporal concerna, and even to depose Sovereigns and absolve their subjects from their allegiance. - The English Cathelic has most particular reason, as a victim, to deplore the effects of a doctrine which was the cause of so much mischief, and the plea for such defection: but whoever is inclined to be just, will find in the Defence of the French Clergy, by Bosenet, (5) (whose erthedexy no one can doubt,) the clear proof, that though the dectrine had its partizane, it never could be imputed to the Catholic Church, and was at all times resisted by the most pious Catholics, Sovereigns and Clergy, in countries truly attached to the faith. It will be clear to the unprejudiced, that the Popes themselves have renounced such maxims and claims, and we need not accept from any high stationed opponents, their version of our belief, or allow them to be, in our behalf, more Catholic than the Pope. - No! sufficient for them will be the task to reconcile the inconsistency of the denial of all corporate as well as individual infallibility, with the right to compel us, under penalties, to adopt their opinions, as well as to explain such contrarieties as toleration with penal laws, or antolerance with liberty of conscience :-- surely those who deal in impossibilities ought not to make such a fuss about miracles. It is as unfair to charge a Cathelic now, with such opinions, as it would be to impute to the Church of England, the doctrine of passive obedience and non-resistance, because it was so strongly supported by many of its ministers in the time of Sacheverel .- Do we object to the Jewish Dispensation on account of the worldly views and misconduct of their High Priests, or of Pharisees or Sadducess? no! in such retrospects, the characters of individuals entirely disappear, and nothing but the principle is even thought of .--- The declarations made this year by the revered Catholic Prelates of England, Ireland, and France, (and none can be more venerated than they are at Rome, as well as here,) are grounded on the same principles as actuated the whole body of the clergy of France in their Declaration made in 1682, and as produced the answers of the Catholic Universities to Mr. Pitt.—Pope Pius VI., in a letter to the Irish Prelates in 1791, declares "That the See of Rome PART I.

(20) See particularly ch. 23,

(48) A. 1588

confirmed the Queen's resentment, and notwithstanding the truly zealous support given by the Catholics during the Spanish invasion, (48) the rigour of her laws against them increased, and threatened every one with ruin or destruction. And although, during this reign, no principle of the constitution was left inviolate, the courts of justice never so tyrannically administered, the system of favouritism scarce ever so prevalent, yet this reign is one of the most popular in our annals. Is it then nothing unpleasant to be ruled with a rod of iron?—The continuance of this severe persecution in the beginning of the reign of James I., notwithstanding the hope he had given of its relaxation, finished by driving a few Catholics to undertake, in desperation, the most atrocious plot that ever was devised; (49) fortunately some feelings of friendship of one of the conspirators led to a discovery of it, through Lord Monteagle, who was a Catholic. But though it was proved that the conspiracy was confined to a small number of persons, the hatred and disposition to oppress the Catholics increased, and became the habit

(49) Gunpowder Treason, 1603.

> had never taught that faith was not to be kept with Heretics, or that an oath to Kings separated from the Catholic communion can be violated; or that it is lawful for the Bishop of Rome to invade their temporal rights and dominions; but that the See of Rome had always taught that every attempt or design against the lives of Kings and Princes was a detestable crime."-—Pius VII. readily declared to Bonaparte his consent to sign that Resolution of the Clergy of France, made in 1682, which contains a most decided declaration of the independence of the temporal power, in all civil concerns.-The present Pope Leo XII., in a letter addressed to the President of the United States of Mexico, dated January 29, 1825, declining to interfere in their disputes with the mother country. uses these expressious-" Our peculiar character, and the dignity to which, without the least merit, we are raised, exact of us that we interfere not with any thing unconnected with the Church."-Again in his encyclical letter to the prelates of Christendom, in 1824, he expresses, that "on civil matters he does not treat." It may also be added, that the Rev. John Lingard, and the Rev. John Fletcher, who have both written very strongly against such claims, have since received from the Pope the degrees of Doctors of Divinity, &c. What Digby, Lord Halifax, formerly said that he was of the religion of the Church of Rome, but not of that of the Court of Rome, was at that time a fair distinction; but since the indefensible claims which some Popes had set up, have been abandoned, it is no longer accurate: -however, with their politics we have, nothing to do.

and pastime of the nation,* the watch-word of opposition, a kind of bull-baiting, and the ministry devising and getting up some fanciful popish plot, or executing a few priests and imprisoning a few country squires, as a tub to the whale. Even the tories, who prided themselves on their services to Charles I. and attachment to the Stuarts, made then and even now make the support which Catholics gave to that cause, a source of imputation against their religion, taxing it with a particular predilection to arbitrary sway; but that attachment is, as I have before stated, (51) accounted for by the impulse of human nature. If the Catholic was then more favourable to monarchy, it was because he "was so oppressed by the laws enacted by the popular party, that absolute monarchy itself would, to him, have been comparative freedom."

From the time of Elizabeth, we proceed through innumerable instances of subversion of our fundamental
laws, most intolerant perversions of justice in our courts,
with persecutions of every description, alternately embracing every Christian mode of worship, to that of
James II. That King, in my humble opinion, merited
his fate, even if we judge solely from public events then
known. He raised money without the sanction of Parliament, claimed a dispensing power and removed all
the judges who opposed it; disfranchised many corporations, and served others with vexatious and unjustifiable
quo warrantos; called on the Bishops to make declara-

I have sometimes thought that the fable of the boys and the frogs may be aptly applied to our situation:—"This is play to you," say the Catholics, as the frogs did to the boys who were pelting them, "but it is death to us." Some boys give over from principle, some from being weary of pelting, or from being annoyed by the splash, others reply—"How unreasonable! have we not left off pelting you with brick-bats? we now use stones no larger than cricket-balls! no, we will pelt away for ever:" others again say—"Have patience, and, in a generation or two, if you remain quiet, we may perhaps cease pelting; this is not the time to leave off." But the frogs are unreasonable enough to continue their re-

quest, that they may not be pelted at all.

PART I.

(51) Remarks, p. 3, 3rd edit.

TAMES IT.

them for not doing it; removed most arbitrarily the

PART I.

heads of colleges, and evidently showed that his object was to establish arbitrary power and to rule without Parliaments. But if we take into consideration what has in later times been discovered, I mean his treason to the country by his becoming the pensioner and tributary of Lewis XIV., with the pledge he gave to support that prince's objects, which were hostile in the extreme to the rights, interests, and power of this country,-we shall all agree, that both he and his brother deserved the fate of their father. If James had any merit, it was for that which was the immediate cause of his expulsion. his attempt at introducing toleration. It is indeed (on the consideration of his conduct towards the Presbyterians in Scotland, both before and after his accession) difficult to give him credit for a sincere conversion to the principle; but when he states in his tardy declaration:(52) "I hope they will agree to a liberty of conscience to all Protestant Dissenters, and that those of my own persuasion may be so far considered, and have such a share of it, as they may live peaceably and quietly as all Englishmen and Christians ought to do, and not be obliged to transplant themselves, which would be very grievous. And I appeal to all men whether any thing can make this nation so great and flourishing as liberty of conscience; some of our neighbours dread it; and I could add much more to confirm what I have said, but this is not the proper time:" when he wrote these sentiments, which were in some degree confirmed at the close of his life, it is charitable to hope that he had become a convert, and had been convinced by experience and misfortune of the wisdom, justice, and policy, of religious liberty. The heads of the Church of England had acquiesced and supported him and his brother in their attacks on civil liberty, and in their persecution in Scotland; they had certainly strengthened the Stuarts in their conviction of having a right to arbitrary power, by

(52) Parl. His. 28 Dec., 1688. their repeated declarations, that it is the duty of subjects to submit to it, and it is remarkable, that the only time they resisted the King and bristled up against his authority, was when the toleration was taken up by him.— This conduct does not certainly entitle those who lay claim to the merit of civil and religious liberty being essentially Protestant, to bring this instance as a proof But intolerance, I again repeat, is not the growth of any true religious principle in any persuasion; it proceeds solely from state policy, the love of power and command, and the desire of exclusive possession. It is indeed a very contagious disorder, long attacking whole nations, then cities, universities, par excellence, even particular colleges where the mark of the disorder is spread on the walls, (53) and all the scraping off, by events or experience, has had but little effect. Oxford itself is far from being out of quarantine: Cambridge has, however, cleaner bills of health, and we may hope that both may hereafter be content with the enjoyment of what is in their own manger, without so much snarling at others who are not so fortunate.

THE REVOLUTION was no doubt a glorious event, inasmuch as it was the triumph of civil liberty over arbitrary sway, and the cause of the restoration of much of our ancient constitution: but owing to the intolerance of the times, of which its leaders largely partook, it became rather a check than advancement towards religious liberty; and it is also to be lamented, that the love of liberty and of our laws seldom influenced the conduct of parties when they interfered with the politics and objects of the day. As to us Catholics, government continued till the reign of George III., both here and in Ireland, to ransack their imaginations for the means and modes of tormenting us. Whether the national faith has been preserved or not respecting the treaty of Limerick, is now a question sub judice; it may be evaded and possibly set aside by nice distinctions, but I should think that no

PART I.

/53) Leviticus, chap. 14.

See Parnell s

(54) On Penal Laws, by the late Lord Auckland. gentleman would like to have his honour, in his private transactions, rest on such ticklish foundations. In many trials also, where politics were concerned, the courts of justice were scarcely less free from nefarious dealings than they were in the times of Oates' and the Rye-house plots, where (54) "it was a common practice to return juries so prejudiced and partial, that, as Cardinal Wolsey formerly observed, they would find Abel guilty of the murder of Cain."

` **(5**5) Wm. III.

A long list of aberrations from the spirit of our constitution and free institutions may be enumerated. (55) By the bill of rights which was pronounced to be a fundamental law and our second great charter, it was declared that Parliament should be renewed every three years, and the representation of the people became legal for that period only; yet that very Parliament, elected to preserve those fundamental laws, voted itself elected for seven.-Not only has this continued, but the attempts to restore the representation, which has evidently widely swerved from its original object, has been most pertinaciously withstood. Standing armies, contrary to all former ideas, and the billeting of the soldiery on the inhabitants have become a permanent system. The Habeas Corpus Act frequently suspended, and with very little proof given of its necessity. Parliament inflicting pains and penalties, when no legal proof of crime was obtained.(56) Attainder and execution for treason by Act of Parliament, when legal conviction was not obtained. (57) Persons imprisoned by Act of Parliament for upwards of 30 years, and all trial refused them. (58) __ The Duke of Ormond attainted for treason when dead. (19) —General warrants devised, though since dropped-1 also doubt very much whether ex-officio informations by the Attornev General without the verdictof a grand jury, or special juries in civil cases are part of the ancient law of this land.—The adoption of the Alien Act as to foreigners is also new, and contrary to an Article of the Great

(56) Attenbury's case, 9th Geo. 1, State trials. (57, 58) 8th Wm. III Se

59 Ibid. 1st Geo. L.

State trials.

Charter.—The attempt to tax America without admitting it to be represented, was also a most fatal deviation from the spirit of the constitution. The practice of torturing to obtain confessions, as used in Ireland, is yet left uncondemned.—Much further detail might be entered into, but 1 will pass to the history of other countries; first requesting the reader to be persuaded, that in relating the crimes and injustices I have stated, it is far, very far indeed, from my thoughts, to impute to the influence of the Protestant religion that which is quite incompatible with the principles of every Christian persuasion; yet it must be admitted, that the deteriorations I have recited are not proofs of any increase of the genuine and enlightened spirit and feelings of freedom and religious liberty, nor any improvement of our notions as to strict justice and its scrupulous administration having, as is claimed, been infused into this country by the change in its religion. Those who assume to themselves the whole merit of our constitution, and now aver that we owe all genuine principles of civil and religious liberty solcly to Protestant ascendancy, must expect from us a tug at the sheep's clothing, and that we shall not allow them to rid themselves of these incumbrances. The influence of the Christian religion (which alone could have rescued the world from the state of extreme depravity into which it had sunk in the time of the first Roman Emperors) presided also, without doubt, over the hearts and the judgment of our ancestors, when they laid the foundations of our constitution on such true principles of justice. The Catholic erected the fabric, the Protestant supplied the buttresses to repair and support it, but it is not the creation of either, any more than the laws and patriotism of Greece and Rome, which we admire, are to be ascribed to the merits of Heathenism. Religion teaches us our duty to God and man, should make us do to others as we would be done by; but rightly taken, ought not to be a politiciau. Moreover, to do justice to that principle PART I.

of the Protestant religion which decides that every one has a right to make free inquiry, and adopt his own construction of the Scriptures, in matters of faith,-it must be admitted, that it is decidedly hostile to every shade of intolerance: its professors would otherwise be punishing those who follow their doctrine and advice; whoever, therefore, concurs in any degree of oppression on account of religious opinions, must lay it to the charge of his own disposition, and not shelter himself under any pretence of religion. But history will unfortunately, in most cases, prove that many leaders of different religious persuasions, who, denying authority in religious doctrines, have claimed and adopted the right of private judgment, have often, when they have succeeded in obtaining followers and support, lost sight of the principle, and then done their utmost to re-establish authority in themselves, and to confine the right to the adoption of their own' tenets; and when they have acquired real power, have actually prosecuted others for not conforming to their opinions.*

For my part, I feel great pleasure in avowing, that among the many free-hearted and generous noble-minded persons of my acquaintance, I see no distinction between Catholics and Protestants, either in public or private life; state me a case, in reference to their country or to their intercourse with individuals, and I could always tell you what their conduct would be. I own, however, that I do feel great indignation, that any one should assume to himself being a better Englishman than I am, on account of any difference in our tenets; nor do I understand how any person of generous feelings, and disposed to benevolence, can make up his mind to con-

[•] It is the heart of every true Englishman, and the generous feelings infused by the long use of liberty, and not his attachment to any particular religious tenets, that make him the advocate of freedom: on the contrary, the mistaken notion, that to prove his sincerity in religious matters he is bound to become God's avenger, has often counteracted it. It is indeed most dangerous to liberty, to make feeling the ground of legislation.

tribute to the distress and unhappiness of others, on account of difference of opinion in points generally above human comprehension.

PART I

When we look to the history of other countries, we cannot fail to observe—that the power of Sovereigns was more circumscribed throughout Europe before the sixteenth century than it has been since the Reformation, and this, at least, proves that the love of civil liberty was not particularly infused by the change of religion.

(60) Robertson's Charles V., vol. 1., p. 380.

THE EMPIRE OF GERMANY was very far from being an absolute government.—" The imperial crown, (says Robertson, (60) as well as those of most monarchies in Europe, were originally attained by election.—It appears the from the earliest period in the history of Germany, the person who was to reign over all was elected by the suffrage of all.—That the Princes of the greatest power and authority were allowed by their countrymen to name the person whom they wished to appoint Emperor, and the people approved or disapproved of their nomination. At the election of Lotharius II., in 1125, sixty thousand persons of all ranks were present." Later, and not till the year 1239, the suffrages of the princes, nobility, and of the deputies of imperial cities were taken, and it was not till then that the number of electors were, under the plea of their being the representatives of the whole, reduced to seven; for all other matters, the Diets continued to be Judges in appeal and law givers, as before.— Augsbourg, Francfort, Hamburg, Nuremberg, Uhn, and other free imperial cities, of which there were at one time⁽⁶¹⁾ more than sixty, were sovereign states, and, in fact, small republics, chusing their own magistrates and The Hanse towns had administering their own laws. also great privileges and immunities, and most of the principalities had some free laws and popular rights, performing only certain services and paying regulated taxes; in a word, the whole country enjoyed greater free-. dom in its laws and institutions than it does now.

(61) General Atlas; Guthrie's geography Putter's Gevmanic empire.

The wars, in Germany, on account of religion, afford a convincing proof of the mischief of persecution, and its inutility; it has however long since adopted complete religious liberty,—in all the sovereignties which compose it, there is no exclusion on account of religious opinions. Our royal family furnish an instance of this liberality, in the person of Ernest Augustus, father of George I., who was raised to the electoral dignity by the nomination and influence of two Emperors of the House of Austria. Leopold made the appointment which was confirmed and carried into effect, in 1708, by Joseph I., with the concurrent votes of the electors, then eight in number, of which, if I mistake not, seven were Roman Catholics, and among these three were Archbishops.* (67)

/62) Puttert

In the civil wars of that country and of France, to which I admit that the Protestants were at first, in great measure, urged by self-defence, the only object appears to have been dominion for their leaders and for their religion; I do not find a single step taken, or idea held forth, of promoting civil liberty or greater freedom in their institutions; the Protestant sovereigns in Germany who espoused the Reformation, did no more towards those desirable objects than our own sovereigns from the time of Henry VIII. to that of Charles I.,—and most of the Reformers of the sixteenth century became persecutors.

THE LATE KING OF BAVARIA and his excellent hearted son have concurred in giving a free constitution to their country, and in devising all the means to make them happy as well as free; and the KING OF WIRTEMBERG and SOVEREIGN OF BADEN have followed the same admirable example.

. SAMONY was the first and among the most enlightened

a The Electors professing the Catholic religion, were the King of Behemia, (the Emperer,) the Elector of Bavaria, the Electors Palatine and of Saxony, who had embraced the Catholic religion; and the three Archbishops, of Mentz, Treves, and Cologue, Ecclesiaatics; the Elector of Brandenburgh, being the only Protestant among them.—See Putter's Germanic Empire, vol. II.

of the divisions of Germany that adopted the Reformation; but nothing was done then or since favourable to civil liberty, and at first the government was very intolerant, allowing of no religion except the Lutheran. In 1697, the Sovereign became a Catholic, but declared that he would not interfere with the religion of the country: and this promise he and his successors have kept; and further, they have still continued to be confided in as the directors of the Protestant interest in Germany. I have before remarked, that "we see in Saxony, a succession of Catholic Princes administering the government of a country, entirely Protestant, in a manner most particularly paternal."—See my Remarks, page 12.

THE INHABITANTS OF THE TYROL ought not to pass unnoticed: they are generally held to be the most honest and industrious, and the most steady and religious people in the world. When, with Hoffer at their head, they rattled down their rocks, in the name of the Holy and undivided Trinity, from the scaffoldings they had prepared on their mountain sides, and overwhelmed whole columns of French below, did their religion interfere with their patriotism? Did the Emperor exclaim, "No! this will not do! these people believe in the spiritual supremacy of the Pope; they may, by some inexplicable means, counteract my Aulic Council at Vienna?"-When, at the waving of the banner of the Protestant BLUCHER, the whole of Catholic Silesia rose in a mass to the rescue of their Protestant King ;---when the same men came to our succour in the field of Waterloo; was there any cry of "Hold! you are men of divided allegiance?" No! that hobgoblin, intended to scare the country out of all common sense, did not then make its appearance; yet the King of Prussia stood entirely in the same case, as to limited allegiance, as our Sovereign does, but he had admitted every Catholic to the enjoyment of his rights, or they would not have stood forward as they did: here · of marer bas

PART I.

Putter, vol. 2. page 368.

See Putter, vol. 2., p. 384.

it seems, the maxim of government is to be, use them and then abuse them. There are in different parts of Germany many instances of churches used at one hour for the Protestant and at another for the Catholic service; such was also the case in Alsace, though in possession of the French during and from the reign of Lewis XIV.—At Strasburgh, the magistrates, Catholic and Protestant, were in equal numbers, and, during the four years I resided there, I never heard of any interruptions of harmony on account of difference in religion.

SWITZERLAND. If any country has a better claim than another, either in ancient or modern times, to be called the Temple of Patriotism and of Liberty, it is this.-More than two centuries before the Reformation they vindicated their "ancient liberties and rights," and withstood, against the most fearful odds that ever appeared in fields of battle, the whole power of the Emperors, Arch-Dukes of Austria, of Charles the Bold. Duke of Burgundy, (63) and of Maximilian 1.(64) If we enter into detail respecting the government of the different Cantons, it will be found that those who remained Catholic retained their democracy, whilst the more populous Protestant divisions degenerated into aristocracies and oligarchies. The Catholic Cantons and the Vallais are also more particularly distinguished by their magnanimous and devoted defence of their country against the French; there are, to the honour of mankind, still living, fathers of families, who, with the assistance of their wives and children to load their rifles, defended hill after hill, valley after valley, whilst a spot of ground remained unoccupied by the enemy. As they are aggregately for valour and patriotism, so are they also individually renowned for integrity, tranquil demeanour, trustworthiness, and fidelity; yet if these men came to England, they would be told that they cannot be true to their country; though their very saints were patriots.*

(63) A. 1950, and most perticularly 1507; see Putter, vol 1. p. 258. Delices de le Suisse, p. 35. Universal History, &s. A. 1515, seppendicular and see 1476, Grandson; 1476, Grandson; 100. Morat: (64) A. 1499.

St. Nicholas Flue, of Underwald, is revered both as a patriot and a saint. To use the words of a Protestant author; "He was

SWEDEN, DENMARK, and NORWAY, were limited monarchies in Catholic times. but are now absolute; and it

PART I.

the admiration of his age, and was held by the Cantons in profound veneration, and his remonstrances and exhortations were received as oracles. He possessed a great fund of good sense and piety, was well acquainted with the true interests of Switzerland, and it would have been well if they had always followed his advice: Switzerland would now be more flourishing than it is."-See Delices de la Suisse, page 434. Nicholas de Flue had been a warrior, and on his return to his country, Landamann of the Republic, and the father of ten children; at the close of his life, he retired and lived as a hermit. He is represented, in a large picture in the town-house at Stantz, as rushing between the troops of the five small cantons. and those of Soleure and Fribourg, and exhorting them to peace ,.. in which he succeeded. His tomb is in the church of Saxelen, where the manuscript book of advice to the Cantons is preserved in the sacristy, which, on occasions, has been consulted and followed. The Cantons bought a house and some land, which is always appropriated to the poorest of his descendants. - Numbers of individuals of all ranks, in all countries, to the honour of human nature, might be named, who, by great sacrifices of their property, have founded charitable institutious, and have often devoted their whole existence to these objects, in the pious hope, that by that obedience to the precepts of charity enjoined us towards our neighbour, united with their duties to the Almighty, they may obtain grace, through our Redeemer, to accomplish their salvation. No where are there so many great and charitable institutions as in this country, none surpass our fair country-women in their active zeal in aid of distress; but much of what formerly existed here, has been lost to the nation ; -again we find Henry VIII. robbing the poor-box: out of 130 hospitals which had been, in early times, founded and located in 101 different cities and townships in England, he suppressed 110, and selzed the land, tithes, and rents, which had been appropriated to their maintenance; all which was dissipated in his and Edward the Sixth's reign. - See Dugdale's Monasticon, vol. II., p. 367; Speed's list, p. 1043; Collier, Camden, &c .- There is scarcely a town on the continent, where such endowed foundations do not exist, and some of them very extensive. Among the religious orders, which have been so much railed at, it should not be overlooked that there are several whose sole occupations are manual service in the hospitals, or attending the sick, teaching in lower schools, the redemption of captives, or befriending the wretched in every way. The example of the Bishop and Clergy of Marseilles, at the last plague there, should not be forgotten; nor the volunteer attendance, on a religious principle, of 66 persons from France, clergy, physicians, and others, on the sufferers by fever in Barcelona, in 1822, in which many fell victims to their zeal; of these, many were of the Sours de la Charite, who were allowed to volunteer their service as nurses, in a certain proportion, from their different establishments. The value of the services of those good nuns are not unknown to our army, particularly after the battle of Toulouse. I was told there (in 1814) an anecdote which should be known here :- One of these excellent persons, known by the name of Sister Martha, had sold her little property for the relief of the Spanish prisoners in that city, and she attended our hospitale with equal assiduity; the Duke of Wellington re-purchased the estate, from his own means, and gave it back to her.

might be pleaded, that their religion had not so much of the spirit of freedom belonging to it, as to induce them to maintain the liberty which had been bequeathed them by their Catholic ancestors. I shall, however, be much mistaken, if Denmark, has the good fortune to preserve the high-minded and liberal prince who is to succeed to the throne (and who made so gallant an attempt for the defence and independency of Norway against the Swedes and ourselves) does not receive a free constitution from his hand. Religious liberty is already established there; of which Count Edmund Burke afforded a conspicuous instance. He was an Irish Catholic, and was brought up with me at the English Monks at Douay, and he remained to his death steady in the open practice of his religion. He had some property in the Danish Island Santa Cruz, which took him to that country, where he became the Catholic Ambassador of that Protestant country, not only to Spain and France, but also to his own country, which had proscribed his able and meritorious services.

See Sismondi History of the Italian Repub ITALY.—In the middle ages, most of the principal cities of Italy had become separate republics, and, like ancient Rome, they lost their liberties—not by the influence of the Patrician order, but by the popularity of some individual, or of some family to whom the citizens made the surrender; thus Florence, the reviver of letters and the arts, after having reduced the republics of Pisa, Arezzo, Perugio, Sienna, &c., gave themselves to the family of Medici, Padua to the Carrari, Milan to the Visconti and Sforzi, Verona to the Scaligers, &c. &c.; but religion had no share either in their rise or fall.

The little town of St. Marino is now the only one remaining: to the destruction of Lucca and Ragusa, we have with the Holy Alliance given our fiat; but as to thee, oh! VENICE! who can read thy ancient story without being wrapt in admiration? who can contemplate thy fate without dismay? A revolution had, it is true,

set aside her democracy by general consent, to bring to an end the dreadful conflicts of popular parties, and had instituted a republic of the higher classes. The subsequent attempts made by other powers to overturn that government, had also caused them to adopt an unjustifiable rigour of inquisition on what related to their internal polity; but still what men those nobles were! The independence of Venice was maintained for nearly twice the number of years (65) that any other government has existed. For seven centuries, her city was the most efficiently powerful state existing,—the greatest emporium of commerce ever known,—the seat and patroness of letters and of the arts; whilst other nations were enveloped in darkness and ignorance.-This was the country of the most valorous, patriotic, and devoted heroes that are on record.—She at once withstood and successfully repelled England, France, Germany, and the Pope, united in arms against her. (66) Without the aid of Venice (and I should add of some of the Popes) one half of Europe would probably have been conquered by the Turk; and now perhaps under a constitution essentially Mahometan, those who possess the disposition to steady conformity with the religion of the state (which is made the requisite to be a good subject) might, instead of quarrelling with us about our respective Christian creeds, be making the deep Salam, and, with as much ease as some of our modern travellers, accompanying it with the Allah! illa! Allah! which marks the profession of faith of the Moslem.* Vcnice, true to her faith, and exact in its exercise, always resisted the encroachments of the Popes, and all interference of the spiritual authority in whatever related to temporals, -of which the notable instance of the unanimous, uncompromising, and successful resistance made by the republic, in unison with its prelates and clergy, to the attempt of Paul V. to use the spiritual authority for

PART I.

(65) From 45**2** to 1800—1**318** years.

(66) League of Cambray, A. 1508.

[&]quot; There is no God but God, and Mahomet is his prophet."

(67) A. 1605. Univ. History, vol. xxiv, p. 320; and Daru, vol. v., page 205.

(68) Daru.,

temporal and political objects, deserves to be particularly and highly recorded. (67) Her clergy, having 37 Bishops, Archbishops, and Patriarchs, at their head, were magnificently supported, but were excluded by law from all civil offices of the state, nor were they permitted to molest others on account of difference in religious tenets; "not only (says Daru, in his history of Venice (68)) those who professed the Greek religion preserved the exercise of their religion, and their Bishops and priests, but Protestants, Armenians, Mahometans, Jews, and those of every religion or sect resident in Venice, had their places of worship there, and the rites of burial within the churches was not refused to heretics:"* nor does it appear that the nations of various persuasions in different countries under her dominion, were either disturbed or excluded from employment on account of their religious opinions.—Yet Venice fell, and that without resistance or even a single blow: her commerce took another direction, and its channels were dried up, but she had not united the strength, interests, and feelings of her population, into one common cause.

And what was thy rival GENOA, who would still be free, if we had not aided in preventing it. + She remained a republic in the hands of the whole people. At one time indeed she might have lost her liberty through the means of the democracy and the popularity of one of her citizens, as had befallen other republics in Italy, and even Rome itself; but she met with a Doria to refuse the sovereignty, and to use his power to strengthen her liberties, instead of rising to greatness on their ruin.

At Rome, where we might suppose the Jews as little admissible as in any place, there has at all times been a part of the city, in which, though under some distinctions of dress, they have lived in peace and security and enjoyed the exercise of their religion, even when in this and most countries in Europe they were subjected to the greatest cruelties and persecution.

[†] The Genoese accuse us of a breach of faith, in the destruction of their liberties and delivering them over to the absolute power of the King of Sardinia, notwithstanding the remonstrance of the excellent person to whom the city surrendered.

But where, except in Washington and Bolivar, shall we meet with such examples of patriotic forbearance.

THE KINGDOM OF POLAND (63) was elective, and approached nearly to a republic; consisting of a King, the Magnates or Senate, and general conventions or Diets. The Pacta Conventa, to preserve the laws and liberties of the country, were sworn to by the King, and grievances were redressed, before he was placed on the throne; and in case of the violation of those laws and liberties, the subject was discharged from his allegiance. This country gave such early and honourable proofs of its attachment to religious as well as civil liberty, as become worthy of the Hierarchy and Protestant aristocracy of England.

At a Dietheld at Wilna,(70) in the reign of SIGISMUND Augustus II., the last King of the race of Iagellon, it was unanimously passed into law, that "henceforward, nct only the Gentry and Magnates who adhere to the Catholic church, but in general all, be they who they will, so they be but Christians, shall throughout the Kingdom enjoy, and for ever retain, all the privileges, rights, and liberties belonging to the nobles; in like manner not only those who adhere to the Church of Rome, but all others of the rank of knights shall be eligible to the senatorial and royal dignity, if they be but Christians, -no individual, so he be a Christian, shall be excluded." It is to be remarked, that in a Polish Diet a single negative prevented the passing of a law, and all the Catholic Bishops were Magnates or Peers. This regulation was again most solemnly confirmed in the Diet held in 1568, at Grodno; and to make the law more explicit, the King added these words, "of whatever sect or religious profession he may be."-In the united Diet held in 1569, in Lublin, this ordinance which combined all the Poles of the Christian religion into one family, was renewed and confirmed.

After the decease of Sigismund II., without issue, all

PART I.

(69) General Atlas, & Geog. Hist., p.1721.

(70)Klaproth's Poland, and Modern Univ. Hist., v. xxx. PART L

the Poles assembled in the Diet held in 1573, for the election of a new sovereign, protested that they would not chuse any man for King who would not swear to the inviolable observance of the above named convention. HENRY DE VALOIS, afterwards King of France, accordingly took the oath that he would maintain the rights of the Dissidents, which remained part of the coronation oath: (71) and STEPHEN BATHORI, the next elected King, who was remarkable both for wisdom and valour, used to say, when urged to intolerance, that "he was King of men, not of consciences; commander of bodies, and not of souls:" and to do Luther justice, he also writes, in his book on civil magistrates, that "the law of them extends no farther than body and goods, for over conscience God alone ruleth." (72) JOHN SOBIESKI, the great Christian hero of his age, in a treaty of cession of territory to the Cossacks, who were of the Greek religion, made it a condition that Mahometans, as well as Catholics, should enjoy the free exercise of their religion, within the territory he gave up.

(71) See Atlas, page 1721.

(72) Modern Univ. History, vol. xxxi. A. 1676.

> The flagitious partition of that ill-fated country, furnishes proofs, if such were wanting, of the little weight which the principles of any religion, or indeed those of common honesty, have when ambition and political interest are in the opposite scale. Here we have Catholic Austria, Protestant Prussia, and Russia, professing the Greek religion, all joining, without any plea whatever, and in defiance of the admitted rights and independence of another nation, to plunder Poland of its finest Provinces, and impose on its subjects absolute subjection instead of the free institutions which they enjoyed; whilst Catholic France and Protestant England are supine lookers on. It may be right not to interfere in what relates to the internal concerns of another nation, but this is a case of the rescue of one country from the oppression of many, and in such a spoliation, there is very little doubt of interference being a duty. When, again, near

thirty years later, the complete subjugation of Poland was effected, notwithstanding the patriotic evertions of its King, the heroism of Koziusko, Poniatowsky, and of the chiefs of the nation, the devoted valour of the whole country, and the profuse shedding of its best blood in its defence, we again remained supine witnesses of the nefarious usurpation. It has often been our boast that we are the protectors of civil liberty abroad, as well as the maintainers of religious liberty at home: I think I have thrown some objections against the last claim; let us now further examine those high pretensions to the former, by the test of our own conduct in other occurences of our own times. It unfortunately turns out that we have been active in our interference for the purpose of putting down liberty, whilst we have been passive and supine when any thing was to be done in its favour. In the first instance, contrary to the admitted principle of our constitution that there should be no taxation without representation, we, for the paltry consideration of perhaps less than £50,000 per annum, carried our arms into the colonies which we should have cherished.* The great mass of the nation supported the selfish act, and reviled the genuine friends of freedom who opposed themselves to

^{*} Such is the blind course of oppression, (and the disposition to it is not easily eradicated,) that it cannot bring itself to give way, even where the soundest policy and the most pressing exigencies require it, nor until it is too late for it to be of use; and then it is always doing things by halves. Thus with America. we were always a year in arrear; what at first would have been most gratefully accepted as a boon, was afterwards rejected with scorn .--Franklin and Washington were at one time friends to the connexion. then to conciliation, but at length were driven to be enemies. This penny-worth to be got, tempted John Bull; then he became irritated by a few uncivil words, and the tarring and feathering two or three excisemen; and we lost America. But governments, like individuals, seldom grow wiser by experience. Heaven forfend it may not be so with Ireland .- The riches of the church, had it supported the Catholics in their civil rights, would have been cheerfully acquiesced in ;—the conviction of enmity makes the next step a wish to pull it down .- The disposition to unite cordially with England hand in hand, by the course of continued disappointment changes to the desire of separation and that leads to a disposition to insurrection and rebellion; checked only by danger and prudence, and thus step by step your friends become enemies.

those unprincipled proceedings, which have occasioned infinite loss in blood and treasure, most ruinous consequences, and which are truly menacing to futurity.-When the dire effects of the contest began to be felt in our packets, the body of the country indeed began to take the other side; but as soon as the friends of liberty had extricated us from immediate pressure and difficulty, the country again took to the support of the very men who had been the cause of the mischief, and not only passed over the delinquency of those who should still be doing penance in sackcloth and ashes, but established them in the full possession of the power and honours of the country, and have ever since maintained them and the successors to their principles in the government of the realm.—A false conscience is made up by the selfish politician, his errors and his votes though destructive of the interests of his country pass unrepented as well as unpunished, he is seldom even permanently blamed, and he perseveres in the support of misrule, heedless of the mischief he entails on the nation and the unhappiness he causes to individuals. There is one consoling feeling to us Catholics, that in the mismanagement of our affairs, and the consequent distress that has fallen on the country, we have had no concern and have nothing to answer for.

With respect to the French revolution, had we not been the heart and soul of the interference in her internal concerns, it is probable that that nation would never have been driven to those tremendous excesses at home, and destructive re-action abroad, which in the issue converted an unjust offensive war to a necessary defensive contest for our own existence. It was pretended that this war was necessary to prevent internal revolution; but how thoroughly was this disproved when almost all the members who opposed it lost their seats in Parliament, and all others were hooted down. Yet after the loss of five hundred millions, in a contest from which we only

escaped by the folly of our enemy, the whole country continued to support the very principles which involved us in difficulty. To our active exertions against liberty, the surrender of the REPUBLIC OF GENOA to the arbitrary sway of the King of Sardinia is in a great degree to be attributed.—In the same manner we joined in the annihilation of the REPUBLIC OF LUCCA, and in that of RAGUSA, of which even the Turk had protected the liberties, to give them to the uncontrouled power of Austria.—Again when the gallant Prince of Denmark and the inhabitants of Norway opposed themselves to their being made over to Sweden, the power that had always been their greatest enemy, our navy was employed to starve them into the surrender of their independence. We were passive when France went forth to put down the liberties of Spain, and surrender them into the hands of the most ungrateful as well as the most despotic man We ought certainly to have prevented the interference of France; instead of which we made laws to prevent our officers from joining in the defence of those who had so lately been their companions in arms.-We are passive again when the rescue of Greece from the most dire oppression is in question, and when it might be effected by a few ships. In these last instances, I fear, however, I may be unjust, as from what we have seen done these last four years, we need not doubt the good will, had our circumstances allowed us the means. We were, before this, passive at Naples, in allowing Austria to depress that country as she chose, and prevent her from obtaining a constitution.-In fine, till lately, when a better era seems to dawn under men of truly English feeling and policy, we have used the plea of not interfering when the cause of liberty has been at stake, and broken through it when the object was to depress it; and we have thus effectually paralyzed our means of supporting it, by our exertions against it.-To resume:--

PART I

PART L

(72) See Collier's Diction. vcce And. II. THE KINGDOM OF HUNGARY was likewise elective and enjoyed a constitution of King, Lords or Magnates, and Commons or Diets, which it still retains;* and by a fundamental law, proposed and enacted by Andrew II. (72) a provision was made for waging war legally on any King who should attempt the subversion of national liberty.

Hungary contains a population of nearly ten millions: the majority of the nation are Catholics, but there are great numbers of the Greek religion separated from that of Rome, many Calvinists, and many Lutherans. The country was long a scene of commotion, in which religious opinions bore a great part; this had, however, ceased for a long period, and peace and liberality among the various persuasions had been established, and Maria Theresa had from it seaped the benefit of the saving support of the whole nation. It was, however, in 1791, (73) thought right to secure religious liberty by more positive laws, and the whole legislature assembled in convocation or diet, at that time exclusively Catholic, established as a fundamental law, that the Protestants of both confessions should depend upon their spiritual superiors alone, in all matters relating to religion; that they should retain their schools, and no longer pay church dues to the Catholic parish priests or schoolmasters, nor be bound to assist in building or repairing Catholic churches, or parsonage houses, or schools, either in money, production, or labour. That all foundations made by Protestants, or that should be made by them, are left to their

* There were in Poland two Archbishops and afteen Bishops; in Hungary two Archbishops and sixteen Bishops, beside great Abbies, of which the heads had seats among the Magnates in their Senates, and the Church possessed in both countries very extensive landed property and great revenues, and consequent influence. It is impossible not to conclude that those Prelates did not exert any influence unfavourable to religious liberty.—Laws passed which established it in the two countries: in Poland, indeed, a single voice was a sufficient negative to a law: there, consequently, the Clergy must have been parties to the liberal concessions that were made. Both in Poland and Hungary the lowest class of the people did not partake of the same freedom.

(73) See decree

own exclusive administration, and any foundation that had been taken from them should be restored.—All affairs of marriage are left to their own consistories; and all landlords and masters of families, are ordered, under penalty of public prosecution, not to prevent their subjects or servants, whether they be Catholic or Protestant, from the observance of the festivals and ceremonies of their religion. All oaths to which Protestants objected. were set aside; and it was enacted, "That the public offices and honours, high or low, great or small, shall be given to natural born Hungarians who deserve well of their country, and possess the other qualifications, let their religion be what it may."-The effect of this was, that when Bonaparte was at one time at the gates of Vienna, and at another time in possession of it, the Hungarian nation which had often before been in rebellion, rose twice in a mass and saved the Austrian monarchy.

We turn to unfortunate Spain, (74) which after an illconducted struggle to recover her ancient liberties, is now a prey to unbounded despotism.

The reader will recollect, that on the ruins, of the Roman Empire, the Visigoths (75) established there an elective monarchy, in which the power of the King was greatly circumscribed. During their dominion, which lasted more than 250 years, "the country was excellently improved, (76) full of cities, boroughs, and villages, and adorned with fine structures, some of which are not wholly decayed." But the nation had by luxury lost its energy and warlike spirit, when under the reign of Roderick, the Saracens invited by Count Julian, his governor of Ceuta, in revenge for a private injury, invaded the country. The battle of Xeres, '77' at once terminated the kingdom of the Goths. The Moors, following up their victory, conquered nearly the whole of the kingdom: many cruelties were no doubt the consequence, but they did not adhere to their former system of conversion by the swerd, having allowed those who submitted, to proPART I.

(74) See an excellent dissertation on the causes of their failure in Lord Porchester's Moar.

(75) A. 466.

(76) Modern Univ. Hist., v. xvi, & xvii,

(77) A. 712.

.Te:. .* , ,

PART L

serve their property, and enjoy the free exercise of their religion; though they were excluded from all situations of trust and profit in the state. So far the Spaniard, under the Moor, nearly resembled the situation of English Catholics at present; but he was infinitely better conditioned than we were, before relief was granted to us in 1778 by his late Majesty; as at that time the laws neither allowed the free exercise of our religion, nor such rights of transfer and inheritance of property as were secured to others. In the state of things in Spain above described, although these Moors were and continued to be a very fine race of men, far superior to any other Musselmen, yet they alone constituted a distinct and exclusive class of masters. Their religion, manners, and customs, prevented them from becoming in any degree blended with the original population; so much so, that the conquerors, after nearly eight hundred years of possession, were quite as distinct from the conquered as on the first day of their landing in the country.

(78) Modern History

during the progress of the conquest of their country, (78) "those who preferred liberty and the unrestrained exercise of their religion to the precarious possession of their properties of every kind," fled into the mountains of the Asturias, Biscay, and Burgos, and elected for their prince, according to their ancient constitution, Don Pelayo, (79) a person distinguished by birth, courage, and capacity. A numerous population, compressed within very narrow limits, succeeded in resisting all attacks, and, gradually expanding, burst again into their country, till with unexampled valour and perseverance during nearly 800 years, with little more than temporary truces, and after fighting 3700 battles, they re-conquered their country, inch by inch, and never for an instant losing sight of their wrongs and vindictive feelings, finished by closing up their opponents within the narrow circle of . the city of Grenada, and then forced them to capitulate. (80). Nor were the minds of the Spaniards ever at rest, or their

To resume: after the loss of the battle of Xeres and

(79) A. 718.

(80) A. 1497.

resentment abated, until, after various insurrections, (mainly caused by cruelty and injustice,) they had compelled every Moor, and the Jews who had been their abettors, to quit the country.

PART I.

(8!) See Robertson's Chas V., vol, 1., page 14.

During the long period above recorded, the Christian power (81) became subdivided into various kingdoms:— Leon, Castille, Catalonia and Arragon, Navarre and Portugal. In every one of these they generally elected their Monarchs, and at all times enjoyed a constitution under the name of States or Cortes, very much like our own, excepting that the royal authority, reduced almost to a shadow, had not sufficient power to do good and preserve the tranquillity of the country against the feuds between the Nobility and Commons, or to make the throne respectable.—In the constitution of CASTILLE, there was a provision made for dethroning the King, if he abused his power; under which they did dethrone Henry IV. (32) Their Cortes consisted of the Nobles and Prelates united, and of the Representatives of the great cities; and questions were decided by majority. money was ever granted before grievances were redressed .- In Arragon, the kingly power was at a still lower ebb: their genius and maxims were nearly republican. They alleged that their country was so barren, that if it were not for liberty it would not be worth living in. one time CATALONIA, which was annexed to it, recalled its allegiance to John II., and endeavoured to establish a republican form of government. In passing a law. unanimity was required: the King had no right to dissolve or prorogue the Cortes without their consent.— After the death of John I., a regency was formed, of equal numbers of Nobles and Deputies of the cities, with the same rank and power. The King had no right to declare war or make peace. The Cortes also appointed an officer called the Justizu,* whose province it was to

(82) 1465.

[&]quot;'None of the Ricos Hombres, or Noblemen of the first order, could be appointed Justiza, he was taken out of the second class of Cavalleros, who answer nearly to gentlemen or Commences in England." See Rebertson, ch. v. vel. 1, page 240.

be the guardian of the people and controller of the Prince, and an appeal was made to him from the royal judges. On the election of a king, he was appointed to take the oath of allegiance for the Barons, in terms which convey a good idea of the principle of the government: We, who are each of us as good, and altogether more powerful than you, promise obedience to your Government if you maintain our rights, if not, No !- These two kingdoms were united under Ferdinand of Arragon, and Isabella, the chosen Queen of Castille, who were the final conquerors of the Moors; they also reduced Navarre to their obedience. Under Cardinal Ximenes, their able minister, the power of the commons was much increased at the expense of the nobles; but the subsequent disputes and warfare between those two orders, finished by throwing the whole power into the hands of the crown.(83)

(5) Under

The Inquisition, however detestable in principle and practice, was not founded in Spain for the purpose of enforcing uniformity of belief in the doctrines of Christianity. In its origin, as well as in later times, polities had a much greater share in it than any religious object. It was the result of unquenchable hatred, amounting to execration, arising from the warfare, cruelties, and mutual injuries and wrongs during a contest of nearly eight centuries: the concentrated vengeance of the conquered Christian on the Moorish conqueror, a degree of hatred scarcely to be understood by more northern nations, at once national, personal, and religious. Judging from history, the real object of the Spaniards seems to have been to expel, at any rate, every Moor, and every Jew, whom they considered as their allies and abettors; and when this was frustrated, by the occasional conformity of either, it would almost appear that it was a disappoint, ment, and that both clergy and laity sought every opportunity to make them out insincere, and to expel and punish them. No doubt there were many good men who

had more Christian-like feelings and sounder ideas of policy, but such, I fear, was the general impulse. The Inquisition was, however, at first resisted by the Arragonese,(84) "they took up arms against the Inquisitors, murdered the Chief Inquisitor, and long opposed the establishment of that tribunal," not on account of any mercy either to Moor or Jew, "but because the mode of trial was inconsistent with liberty, the criminal was not confronted with the witnesses, he was not made acquainted with what they deposed against him, he was subjected to torture, against law, and the goods of persons condemned were confiscated." This tribunal once established, was, of course, easily perverted to any kind of persecution; it had however fallen into disuse, and both the late and present Pope refused their sanction to its re-establishment.

(84) A. 1485. Robertson, vol. I., p. 347. from Zurita's Annals.

PART (.

PORTUGAL.—ALONZO, the first King of Portugal, (45) in 1139, freed the Kingdom from the Moors, by the battle won in the plains of Ourique, and the government became a limited monarchy. In 1385, the states-general elected John I., out of three candidates for the throne, and the restrictions on the regal power were more precisely laid down. The King signed and observed every condition in favour of the subject, excepting that which limited him in the choice of a wife, which he persuaded them to leave to him; and during the subsequent reigns many meetings of the states general were convened.

(85) Moderne Univ. History, vol. xviii,

THE HOUSE OF BRAGANZA owed its throne to the independent spirit of the nation, and now a beneficent sovereign acquits the debt of his family by restoring her Cortes and proclaiming liberty of conscience. No doubt the success of the cause of civil and religious liberty there, as well as in South America, is greatly owing to the fostering support which it has received from the congenial spirit and feelings which now guide our counsels in our external relations. This shows what happiness such men at our helm, with our resources uncrippled, A. D. 1640

might have conferred on the rest of the world. But are we to support civil and religious freedom abroad, and maintain a persecuting system at home?

(86) 4. 1477. Puffendorf. 'ntroduction

10' History , page 216.

(F7)Grimston's Netherlands, to A. 1608, page 222.

(88) 1539. abid, page 223.

(89) page 179.

THE NETHERLANDS had originally been composed of seventeen distinct feudatory principalities,* most of which were eventually united under the dominion of PHILIP THE GOOD, Duke of Burgundy. By the marriage of Mary, his granddaughter, with the Emperor Maximilian, (86) they devolved on the House of Austria. these provinces, says Puffendorf, "had been accustomed to a rule with mildness," they enjoyed "many great privileges, in the maintaining of which they were always very forward. The Estates, which consisted of the Clergy, Nobility, and Citizens, were always in great authority, and would not easily suffer that any new impositions should be laid upon the people without their consent."-" CHARLES V. bore an extraordinary affection to them, and they to him."-" The custom of the Netherlands," (67) says another author, "is that they never acknowledge nor will install any of their superior Lords and Princes, before he personally sweareth to hold and maintaine all their priviledges; and upon that condition they accept him, and sweare to be true, faithfull, and obedient unto him, and so receive him into their townes and provinces joyfully, and that with great triumph."+ Charles V.(88) had indeed attempted to unite all the provinces under one code of laws, but they resisted, and he did not persist; (89) he had also attempted religious persecution, and the introduction of the inquisition, but he

The Dukedoms of Brabant, Limburgh, Luxemburgh, and Guelderland, the Earldoms of Flanders, Artois, Hainault, Holland, Zealand, Namur, and Zutphen, the Lordships of Friesland, Mechlin, Utrecht, Overyssel and Groningen and the Marquisate of Antwerp.

⁺ This was called the Joyeuse Entree, the Empress Maria Theresa took this oath; Joseph the Second did not, and this, with an attempt to overthrow the privileges and exercise of her arbitrary acts in that part of the Low Countries which remained to Austria, produced an insurrection, and so alienated the minds of the nation, as to make it an easy prey to the French under Dumourier.

forebore on the remonstrance of his sister Mary, Dowager Queen of Hungary, Governante of the Netherlands, who rode to Augsburg to meet him, and "invited him into the Low Countries, to behold with his own eyes how persecution begat heresy. (90) In his speech to his son Philip, on resigning to him the government of the Low Countries, he exhorts him to "love and honour them," and warns him, that "if he treats them otherwise they will be the cause of the losse and ruine of his estate."(91) But PHILIP II. acted towards them, (92) "in every step of his conduct, the part of a supercilious haughty Spaniard."-A dispersed Empire, at the same time that it is weak against an external foe, affords formidable means to the sovereign against the liberties of every part of it. Soldiers who would not assist in subjugation at home, are ready to oppress their fellow-subjects at a distance. This Roman policy has ever been adopted, when encroachment and injustice have been resolved on. Philip, by the possession of the wealth of the Indies, with dominions in every part of Europe, was, by his ambition of general monarchy, the depth of his councils, and his want of all principle and good feeling, a most formidable enemy at every man's door: but he was not less so to his own subjects. His Italian soldiers were taken to Spain, his Spaniards to the Netherlands, and his Flemish subjects exhausted in his wars with France, &c. Thus America was intended to be subdued by English and Irish soldiers, Ireland is controuled by England, and Charles I. attempted to support his arbitrary views by the means of Scotch and Irish soldiers.

Historians have written that Philip, (as well as Charles V., and Cardinal Pole,) had shown himself averse to the persecutions of Mary, (95) but his subsequent conduct must leave great doubt of his sincerity. No one is utterly bad at the very first; he certainly had the best possible disposition to tyranny of every description; the conduct of his wife, her father, (94) brother, and

PART I.

(9^) Grotius Annals, lib. I.

/91)Grimston, page 191. /92) Puffendorf, p. 217.

(93)SeeHume, Mary, vol. 5.

(94) Hen. VIII, Edward VI, Mary, and Elizabeth.

sister,* afforded him many lessons and examples of the carelessness in shedding innocent blood in persecution for opinions, and in the art of perverting free institutions to the worst of tyranny; with the proof of the ready acquiescence of a whole nation to it. This could not fail to have effect on such a disposition.—It was not, however, till ten years after the death of Mary, that Philip sent the Duke of Alva with an army of his veteran troops to suppress the liberties of the Netherlands and enforce religious persecution. † (95)

(95) 1567.

Philip was driven to this ultimate tyrannical resource by the steady resistance of all his subjects of the Low Countries, whether Catholic or Protestant, to his attempts on their liberties, both civil and religious. I will refer the reader to the sole testimony of Protestant historians, (96) whether, in this long and glorious struggle, there is any reason for the Protestant to assume to himself any superior claim to merit in the genuine support of either civil or religious liberty? The reader, on a retrospect of a few years previous to the arrival of Alva, will find, that notwithstanding some outrages that had been committed by Protestants, to which provocation had no doubt been given, the Catholic led by the Earls

(96) See Watson, 1565; vol. L. p. 275, 263

Mod. History, v. xxvii. p.374

† The Netherlands were nearly the finest inheritance that man ever entered upon. The whole country in "a most flourishing condition, above 350 cities enclosed by walls, and 6300 towns, all considerably wealthy and commercial; the number of inhabitants was prodigious for the extent of the country. The Flemings were remarkable for their skill in navigation, their assiduity in commerce, and valour in war. Under the mild government of the House of Burgundy, they became excellent artizans, and rich merchants; during the warlike reign of Chas. they were made soldiers, and improved those military talents they had already exercised." And all this was lost by oppression, not only the advantages that might have been derived from possession, but the whole of the wealth of America sank in the pursuit. Oh! if experience ever made countries or individuals wiser, what benefit might be derived from such examples. But that seldom happens: A Manichean would say, that in politics, the evil spirit always has the best of it. "

^{*} There were fortunately only two generations of Tudors, after that family had ascended the throne of England, and Philip had only two sons; one he put to death, the other was nearly an idiot; it has been deemed providential that animals of prey are seldom prolific.

of Egmont, the two Montmorencies, Hoorn, and his brother Montigny, the Marquis of Mons, with the Prince of Orange, (who at that time was also a Catholic), all of them Governors of Provinces, and men of the greatest ability and worth, particularly Egmont, who had vanquished the French in the battles of St. Quintin and Gravelines, and was the most respected and the most popular man in the whole Netherlands; besides the great mass of the nobility and commonalty of the whole country, supported and protected the freedom of the Protestants as well as their own. This support of the civil and religious liberty of their country, Egmont and Hoorn (97) sealed with their blood on the scaffold, the Marquis of Mons having died during his mission to remonstrate with Philip, and Montigny having also expiated the same crime at Madrid, by the administration of poison.

The whole population, wherever they were not under the immediate pressure of the bloody hand of Alva,* PART I.

(97) See Watson, vol. I., p. 193, 317.

[•] The conduct of the Duke of Alva, bigoted and ultra-Catholic as he was, strongly exemplifies the difference between civil allegiance and the authority given to the Pope in spiritual matters .-When in the year 1527, the Emperor Charles V. waged war with Pope Clement VII. Rome was sacked, and the Pope himself taken prisoner, and confined in the Castle of St. Angelo. On receiving this intelligence, Charles V., then at Madrid, called what was styled a Council of Conscience; to which the most learned theologians of the country were summoned, to deliberate whether the Pope should be set at liberty or not? many were of opinion that his detention would forfeit the reputation for piety and zeal for the Catholic religion, in which their Sovereign was held by the public. They argued that the Emperor's power was sufficiently great to reduce the Pope and his allies to a proper line of conduct, and urged that he had been already sufficiently punished .- When the Duke of Alva arose, he spoke as follows, and his opinion was eventually agreed to. "It would have been very desirable (said he) that the Pope had mever fallen into the disgracing situation in which he is now placed; but the mischief is done, Rome has been sacked, Clement is a prisoner, and the blood of a great number of soldiers and citizens has been spilled ;-a remedy for these evils is sought, but what is it? Some say that religion requires that the Emperor should restore him to liberty. I also should be of that opinion, if he were not a secular Prince, and had he not raised an army against his Imperial Majesty, and entered into league with several Princes of Europe against him; and had he not also deceived him on several occasions. We have been the dupes of Francis I., and if we now are the dupes of the Pope, we shall become the

(98) For instances, see Watson, vol. 1I., pages 23, 25, 51, 52, 57, 58, 240, 246, 247, 279,

though he had become a Protestant, on an assurance of the maintenance of liberty of conscience;—during this contest, the Catholics had often nearly as much to suffer from the outrages of the Protestant mercenary soldiers levied in Germany, with whom they were fighting in one common cause, as from the cruelties of the enemy. (98) The reader will also see that after many years of joint effort, the maritime provinces, which possessed more local advantages for defence, did, in hatred to the Spaniard, conduct themselves with the greatest cruelty towards those who had thus fought with them in the field and bled for their civil and religious liberties on the scaffold; and that they proscribed, by the union of Utrecht, the Catholics from the exercise of their religion, and finally compelled them to separate their cause. (99) And then,

/99) 1379; Ibid, p. 275, 279, &c.

laughing stock of the whole world ;-as the arrow is sped, would it be useful to draw its head, without healing the wound? If the King of France failed in his word and promise, notwithstanding your precautions, are we to set the Pope at liberty without taking others of a stronger nature? the more closely he is confined in the castle of St. Angelo, the stronger the lesson of wisdom will be to him. We must listen to such proposals as shall be made to restore him to liberty, and put affairs into such a condition as shall procure Germany in French, by Father Barre, Canon of the Church of St. Genevieve, and Chancellor of the University of Paris. - Vol. III., page 206.—Another anecdote in Ferrera's History of Spain, vol. VIII., page 119, on something like this subject, may also with propriety find its place here. In 1491, just before the surrender of Grenada by the last King of the Moors, to Ferdinand the Catholic, and Queen Isabella, they were informed that the President, Counsellors, and Court of Chancery, at Valladolid, had allowed an appeal in a cause of a nature in some degree civil, to be made to the Pope. They immediately displaced the President and the Counsellors in Chancery who had suffered the appeal to be made, to mark their disapprobation of this conduct, and prevent similar attempts in future. Yet they were the Sovereigns who introduced the Inquisition into Spain .- The first war that Philip II. engaged in, was with the Pope: in this he was sanctioned by the formal opinions of the divines of Spain, and of the Low Countries, which he, without any necessity, thought proper to take .---- Our ancient statutes of provisors, in the reigns of Edward 1. and Edward III., show that the rights of Sovereignty in temporal matters were duly enforced here in Catholic times; and the Reports from the Select Committee of the House of Commons, on the regulations of foreign States in Ecclesiastical matters, and their intercourse with the See of Rome, will show, that all danger of encroachments from spiritual authority are carefully guarded against.—See Reports, June, 1816.

within a few years, after having obtained quiet possession of their own rights, commenced a most severe persecution against another class of Protestants, the Arminians, little differing from them in their tenets; and brought to the scaffold, at the age of 72 years, (100) John Olden Barnaveldt, one of the most celebrated statesmen and truest patriots that any country ever has produced, and who had devoted every action, every thought during his long life, to the welfare of the republic. At the same time, they condemned to perpetual imprisonment, Hugo Grotius, (101) the most learned and patriotic philosopher who flourished in that century; and to our shame, be it added, that James the First and his Cabinet were the zealous promoters and abettors of these unprincipled persecutions.—See Grimstone, page 1383, &c.; Letters of James I. to the States, &c.

FRANCE, during the first and second races of its kings. was a limited monarchy.-Charlemagne held several assemblies of the States-general; the power of the sovereigns was also restricted in the beginning of the third dynasty. In 1320, Philip the Long, summoned his parliament, consisting of the prelates, barons, and good towns of our realm," to meet him at Narbonne, for the redress of grievances. Louis XII. convened the States. general to take into consideration the treaty of Blois and they were occasionally held till the year 1614. The great principalities which had been feudatory to France, and which were successively annexed to it, had also their respective Parliaments or States. Those of Languedoc, Dauphiny, Brittany, Burgundy, and, I believe, Provence, continued to be held to the time of the Revolution; they consisted of Deputies of the Clergy. Nobles, and Third Estate; I have been at those of Burgundy, which were convened every third year, at Dijon. under the Presidency of the Prince of Condé, and were attended by the whole country, and carried on his great magnificence. Although the principle of freedom'- PART I

(100) May, I619; See Grimstone, page I383.

(101) Grimstone, p. 1407.

existed in these institutions, their constitution was defective in the means of enforcing the holding of their States.—It is well known how loudly the re-establishment was called for in 1789, and what consequences, good and bad, ensued. Religious liberty has become the fundamental law of the realm, and the salaries of the ministers of the Catholic and Protestant religions are provided for by the State; with this difference, that one third more is paid to the Protestant than to the Catholic, on the supposition that he may have a wife and family to support.* I understand that the government has appointed those of both religions very indiscriminately to the offices of the state, and when I was in Paris, in 1822, it was very difficult to obtain information as to who was Catholic or who was Protestant in the Chambers of Deputies, Senate, or Offices, a great many Protestants in the South of France; and it will be recollected that, in the year 1815, a report was spread, which proved false, that the Protestants were suffering some persecution: the outcry ran from one end of this country to the other, every paper was filled with indignation and abuse; whilst if any one of us, irritated by being trodden upon, breaks into an angry or intemperate expression, the whole Catholic body is called to account, and is to suffer for it. How exquisitely sensitive to the slightest touch or breath of air that might affect the Protestant, but what stern and stoical fortitude in bearing the sufferings of the Catholic; nay, more, I have seen on the occasions of those rejections of our claims and new riveting of our fetters, which have harrowed up our souls to misery, instances, in some of our comfortable oppressors, of that kind of malicious exultation which gives one a tolerable idea of the enjoyments of a Grand Inquisitor.

I am informed that the Minister of the Church of England, resident at Calais, receives a salary from the French Government for performing service there.

America, from the rapid progress she is making, her extent, her expansive means for population, with unbroken increasing resources, will probably in future times, perhaps not very far distant, become the most powerful continent of the world:—she has triumphantly raised the banner of civil and religious liberty from her northern to her southern extremity. What has already been done, proves what liberty can do, and to what it can raise a country: was it not a few years ago a nonentity in the scale of nations? But let it not be forgotten, that in the Catholic Province of Maryland, liberty of conscience was first proclaimed to be a civil right, and that the professors of all religions were there admitted to every privilege of citizens.

In contemplating the great political events that have taken place during my life, and, judging by later transactions, I cannot help indulging with regret in the reflection, that had it been the good fortune of England to have its external relations conducted in the true English spirit of the distinguished person now at their head, no division of Poland would ever have taken place, and we should have had no American and possibly no French war: and what then would the resources of England be?

I shall conclude this part of my subject, by briefly recapitulating, that we see in Spain, at all times Catholic, the nation enjoying for upwards of three centuries, a limited monarchy, and exceedingly jealous of her liberties and privileges, and then, for nearly as long a period, she submits to absolute power: is not this as strong a proof, as that two and two make four, that religious tenets have nothing to do with political events? Again, we have the Catholic Cantons of Switzerland, for upwards of 500 years, strictly democratic in their government; Venice, for more than 700, as positively under an aristocracy, and the territory of the Kingdom

of Naples for an equal time under arbitrary sway; all precisely professing the same religious tenets: does not this demonstrate, mathematically, what the venerable Prelates of Ireland have stated; "That the Catholic religion, far from interfering with the constituted authorities of any State, is reconcileable with every regular form which human Governments may assume."

Religious Liberty is a Civil Right.

I HOPE, that in the preceding part of this discussion, I have addreed sufficient historical proof, not only that the Roman Catholic religion is not hostile to civil liberty, but that there is no country in Europe which does not owe whatever it possesses of free laws and institutions, to the times when that religion was generally prevalent; and that on the whole the Continent was more free than it has been since the Reformation.—I am sorry to say that the right to religious liberty, which stands on even stronger grounds of reason and duty, cannot be traced back so favourably: but I shall have no difficulty in proving, that it was antecedent, and is quite as flourishing in the Catholic governments, as it may be in any Protestant State whatever.

I have shown that persecution on account of opinions on religious matters, was no part of the original constitution of England, or of our common law; and that other circumstances relating to civil government first produced the unjustifiable statute which inflicted punishment for doctrines. Those statutes have since that period been multiplied to such an excess as to produce a most strange variety in intolerance not to be met with in any other country. Our discordant religious persuasions appear on the stage, alternately persecuting and persecuted.—The Government, under the influence of religious zealots, or crafty cold-hearted politicians, often lavish of blood, always careless, in this respect, of the happiness

and peace of mind of part of its subjects, has gone on to the present times,—heedless of the disunion, discontent, and danger it occasions, in a system of opposition to that religious liberty which has restored to the continental powers peace and good-will among their subjects, and, in many instances, obtained for them the strenuous support of those who had, when the contrary system was upheld, given them the most just grounds of alarm for their internal security. By historical references, I have also shown the early adoption of the principle of religious liberty in some countries, and that it is now triumphant in both hemispheres, leaving England and old . Spain as counterpoises to each other in the scales of illiberality. But even in Spain, we see the Duke of Wellington, notwithstanding the difference in his religion, and though unfortunately opposed to the liberation of his countrymen here, crowned by the Spaniard with the highest military and civil honours, a general, a grandee of the first class, a knight of the golden fleece, and possessor by grant of most extensive domains. We see Lord Beresford enjoying the same honours in Portugal; and I have heard from many of our officers, that they never met, even in their intercourse with the Priests in Spain, with any unpleasant circumstances on account of their difference in religion. I put it to every Englishman who has travelled on the continent, whether he has at Rome, or in any Catholic country, experienced from any class of the inhabitants any thing like that aversion, on account of his religion, which Catholics have so often experienced both in England and Ireland: nor do Catholics, either at home or abroad, deal in the sort of imputations against Protestants, to which we are subjected here. They do not attribute all the extravagancies of sectaries to which the separation from the Church of Rome has given rise, to the principles and tenets of the Protestant Religion; this, if they were equally unjust, they might do. Enmity and religious

hatred are certainly in theory most adverse to its true principles; but from the conduct and practice of some of its ministry here, a Turk or a Gentoo would infer, that calumny, misconstruction, and imputations, are of precept.

It is undoubtedly true, that the fatal influence of power, and the desire to preserve and monopolize it, has but too often contaminated the human mind in religious as well as in worldly matters; and that this, or mistaken zeal, have made both the clergy and the laity of all persussions lose sight of those positive injunctions of entire charity and forbearance which are instilled into us by every page of the Christian code. Every description of Christians, if they follow the precepts they are taught, will be good themselves and just and charitable to others. Our Saviour has expressly distinguished the civil power from the duties of religion, by declaring that his Kingdom is not of this world, and by giving this distinction the force of precept, when he orders us to give to Cæsar what is his due, and to God what appertains to him. There cannot be two meanings to this text; the difference betwixt duties of conscience and those of allegiance are most marked and decided, and as distinct as earth and heaven. It may also be urged that on the basis and by the free exercise of this right, our divine religion was established and promulgated, and nations were converted: it is by this right that missionaries are now sent to distant infidel countries by Christians of every persuasion. If religious liberty is not a civil right, then were all the persecutions of the first Christians morally justifiable; and they were bad subjects and disturbers of the peace.* In fact, the Apostles themselves and

PART 11.

Hume, in the argument against intolerance, which he puts into the mouths of Cardinal Pole and other Catholics, who opposed the persecution by Mary, says, "Adversaries in religion embrace easily any pretence for representing opponents as impious and profane; and if they find a colour for connecting this violence with the interests of civil government, they can no longer be restrained from giving uncontrouled scope to vengeance and retentment—but surely

PART II.
(I) St, Peter, I.
chap. 2

their disciples were taxed with being imperfect subjects, and St. Peter (I) exhorts them to follow their religion, and their loyalty to the state and the worldly obligations of their stations, as duties entirely distinct from each other.*-The Government of Rome had an established religion of which the very individual Cæsar (Tiberius) whom Christ decides to have a right to the allegiance of his disciples, was the supreme head or Pontifex Maximus. If he had not any right to allegiance in spirituals, by what authority, even equal, does any other sovereign now possess it? Surely no government can have more right to the controul over its subjects in spiritual matters, than Tiberius had over the Apostles or first Christians; nor were their obligations more extensive. Did not those first Christians distinctly owe spiritual obedience to St. Peter, the rock on which Christ declares that he builds a Church, which is to endure in the possession of truth at all times to the end of the world, and to the other Apostles, and to those whom they appointed? that if the religion of the governing power is the necessary rule and duty to be adopted by the subject; then it was the duty of those Christians to conform; thenwere all in Constantine's reign, immediately succeeding that of Diochesian, to become Christians without faith, or any conviction of the truth; then should there be no

never enterprise was more unfortunate than that of founding persecution upon policy." He notices further, that "persecution involves some apology for the ancient Pagan persecution, and for the extirpation of Christianity in China and Japan."—Vol. FII., page 374—6. Bade writes, that when Ethelbert was converted by St. Augustine, no compulsion was used with his Pagan subjects.—Book I.

When, by the divine precept, the Disciples of our Lord were enjoined to give every due obedience to the state, and, at the same time, were ordered to preach doctrines which were to overturn the religion of that and of every other state, it amounts to a mathematical demonstration and follows as a corollary, that governments have not authority given them from above to exact obedience, in matters purely religious, and that their interference by coercion is tyranny, the pettifogging distinction of giving toleration, and if you make use of it, taking from you your political rights is unworthy of every fair and thinking man.

Christians in China or Japan; then were all subjects bound to remain Catholies in the beginning of Henry the Eighth's reign, to become Church of England men in Edward the Sixth's reign, again Catholics with Mary, then successively Church of England men, Puritans, &c. Is the religion to be determined by the majority? Then ought there not to be a Christian in Turkey or in Hindostan, or a Protestant in France or Ireland, a Church of England man in Scotland, or a Presbyterian in England, and so on in other countries. The result of the inquiry will show the absurdities and false positions into which the system of compulsion in religious opinions involves any nation, or the individuals composing it, by its adoption, and that both reason, experience, and sound policy, require that religious liberty should be admitted to be a civil right. If persecution is at all lawful, then all the degrees of it must be sanctioned, the faggot, the rope, as well as minor punishments, exclusions, &c., because if a little severity will not suffice to bring subjects to their duty, more must become justifiable. Observe, that if it is admitted that our Government has this right of controul over consciences, all other Sovereigns become entitled to the same.* They are all equally in possession

PART II.

The Emperors of Austria and Russia, the Kings of France and Prussia, have as much reason as our government to punish their subjects for this supposed division of their allegiance; we should be glad to have the difference distinctly shown. Englishmen may be assured, and our Ambassadors can testify, how much' this splitting of hairs is ridiculed in other countries, and how much it tells as a travers and deduction from their opinion of our sound sense and prudence. Those nations who are jealous or hostile to us (and this comprises nearly the whole world) rejoice in our thus paralyzing our strength and counteracting our own powers; surely it must be deemed a national folly to resist concessions which would give solidity to the State, and rescue it from all present and any apparent future danger, and, by allaying the causes of discontent, unite our whole population in one common interest and object. Our enemies alone can approve our making the sacrifice of essential benefits to those funciful fears which have pourtrayed in the misty distance, some remote and undefined unfavourable object, or some incident utterly improbable and almost impossible, and which, if it did occur, would be of obvious and easy remedy.-This preference of the endurance of positive evils, to the fear of imaginary ones, holds, however, only where intolerance leads: let

of that power which the Gospel declares to be from above, and to which obedience is due. And why, in that case, should the Sultan, the Commander of the Faithful, or the Emperors of China or Japan, be excluded? The question still remains, what obedience is due, and what is meant by allegiance? When, as Catholics, we are accused of holding divided allegiance, we may in justice claim that the precise meaning of the word allegiance should be strictly defined,* and that the relative duties of government and governed, in this respect, should be marked with precision. Common justice requires that the cases in which it is averred that we fail in it, by admitting the spiritual authority of the Pope, and denying the spiritual authority of the Crown, should be distinctly proved; that we may have that fair opportunity, which is due to all that are accused, of clearing ourselves of the charge, and of answering every particular instance; and, if required, making such declarations upon oath of our

one class of politicians indulge only the slightest apprehension that any of our free institutions may counteract their rule or political views, and the Habeas Corpus Act and other personal securities of Englishmen are to be suspended the next moment; and happy are we, if, after much time and with much difficulty, such rulers have allowed us to get them back piecemeal, with the certainty that when they stand the least in their way, they will again try to set them aside.—As to our own Sovereign, his Majesty's proclamation to his Hanoverian subjects, and my own memory of the past, leave in my mind the well-grounded conviction that he is favourable to our cause; and every warm and grateful personal feeling which I cherish, makes me anxious that the high renown which history will stamp on the generous deed which gives peace, energy, and happiness to our sister country, and consolidates the interests of the Empire should belong to his Majesty; it would be the most heartfelt line on his tomb; and then, "let it be cut deep in the stone. that it may not be washed away by the tears" of Ireland.

Weber.

That England, which has of all other countries held allegiance the cheapest, and which, contrary to the admitted rules of succession, has so often changed its dynastics, or dethroned its sovereigns, should now split hairs into the most fanciful and unintelligible refinements on the definition of the word, shows to what length the spirit of intolerance may mislead its blind votaries. Proceed only a little further, and we shall prove that this is the only country, Protestant or Catholic, which that spirit renders incapable of religious liberty; whilst, formed as our empire is, from east to west, of all the religions in the world, we ought to be, in policy as well as principle, the most liberal government existing.

principles and determination, in every such particular case as may be objected to us.* General accusations are often a subterfuge, a flimsy veil, to cover manifest injustice! If, by allegiance, it is meant that it is requisite to maintain that the power in spirituals is necessarily vested in the Sovereign, then, as I have before stated, was the allegiance of the Apostles to Cæsar, and still more so that of the primitive Christians, a divided allegiance: the same may be said respecting the allegiance of Catholics, not only to Protestant but also to Catholic sovereigns; in the same case are those who belong to the Church of Scotland, and all the inhabitants of countries under our dominion that do not belong to the Church of England; in the same case are most of the countries professing the Greek religion to their respective Sovereigns, and, I may add, all Protestant subjects who do not acknowledge their Kings to be the supreme head of their communions. By pushing this argument to its extent, it would turn out that those who profess the doctrines of the Church of England within our realm, are the only truly faithful subjects existing.+ result, I feel quite confident that no definition of allegiance will bear our adversaries out in their claims on us as subjects.-The rights of sovereignty are not unbounded, and to the claims on individuals there are corresponding duties on the part of the governments, and claims of right also on them. Government may be criminal towards its subjects, as well as they may be so in the performance of their duties; it becomes a question, which of the two has the just cause for complaint?

PART II.

We have lost so much by our refusal of oaths, that for those we do take we have a better right to be credited than any other set of men.

[†] May not a subject of another country adopt the religion of the Church of England, without being liable to the charge of divided allegiance for holding the King to be the head of it? Are all the subjects of the United States of America who have adhered to it untrue to their country? There never surely were arguments used of so frivolous a nature as this of divided allegiance, except the objections to Emancipation founded on the Coronation Oath.

our souls and consciences is not governing, it is tyranny. Actions alone come within its sphere, the bond between us is essentially civil. We are not (as is said of those

PART II.

who sell themselves to the Devil) bound to them body and soul. I have shown what persons born about the beginning of the reign of Henry VIII.(e) were liable to, if it is a real duty to conform to the religion of the State; and I leave every one to judge, whether, had they obeyed such law, their condition would not have been nearly as annoying and as tormenting both for body and soul, as if, according to the vulgar idea, they had sold themselves to that same black gentleman.--. Every class of Christians may therefore consistently and without scruple maintain, that the rights of every individual to religious liberty should be unshackled by worldly power or interference.—Far be from me the thought that all religions are indifferent or equally good; I believe in my own as the only truth, I am a Catholic on the same grounds as I am a Christian; because I am convinced that the very identical doctrines were uniformly and every where in Europe, Asia, and Africa, preached by the Apostles and their disciples; and I also know from history, when and where and by whom any difference in them either originated or was attempted: but I am also persuaded that neither governments nor individuals have any right to impose civil pains or disabilities on account of doctrines purely religious. is not in any part of the Christian cede, a single text that gives authority to the hand of worldly power, for

the coercion of others in matters of conscience. We have no authority to establish ourselves as God's avengers, for what belongs to men's minds Nature has not given us any such power of controul over another, the individual has it not over himself; he cannot believe or disbelieve as his interests or even his wishes may guide him; how absurd then that another should pretend to

(2) Page 24.

so, the attempt to exercise it must be tyranny. Persecution, therefore, whether it be by infliction, by privation, or by exclusion from public benefits, is an usurpation neither authorized by God, nor by nature nor reason; and history shows us the dire effects of such attempts, and their constant failure and inutility, nor do I think it accords with the high minded character and feelings of a gentleman. But whatever may have been the merits or demerits of our forefathers, the real question is what is right, just, and expedient to be done now? For this, as far as every individual takes a share, he is answerable to his country, whose interests, on true principles and sound policy, he is bound to espouse here; and he will be judged hereafter by the Supreme Being for the part he shall have taken in them, in reference to those pre-

cepts and duties which, on examination of himself, his conscience will not fail to point out to him, through the medium of the injunction of his religion, to do as he would be done by. If he joins in persecution, in any shape or degree, he so far adopts the principle, and identifies himself with others, and excuses what has before been done.

the only difference being in the degree.

Yes, I anxiously invite every one to try the general question in his own mind: to examine what authority he has to coerce his neighbour, more than his neighbour has to coerce him? What entitles him to establish himself judge over another's mind and conscience? What divine legation he has for it? What human power he possesses over another's mind and thoughts? What are his means of controlling them? "Force never made either a good subject or a good Christian; conscience cannot be compelled, or faith forced."—Let him examine the effects of any degree of persecution, by the impolicy and cruelty of the attempt in private concerns; by the barassing effects it has on the individual, his family, his hopes, his views, and his happiness; by the irritation

PART II.

PART 11.

and hatred it produces between man and man; by the same effects it produces between the component parts of the community; by the certainty of its being deemed and felt as an abuse of power and unjust oppression; by the danger it produces to the commonweal; by the bad passions, savageness, and bloody-mindedness it generates in the persecutor; by the hatred and vindictiveness in the mind of the persecuted; by its immoral effects, dissimulation and hypocrisy being its only possible success; by the mischief of setting one part of a nation against another, and the consequent disadvantages to it, as well as the advantage those divisions give to the enemy; by its driving every subject exposed to it, to love his country less, and making patriotism a contest between nature and principle.—Try the question also by the contrary principle, being the promoter of peace and charity between individuals, and all classes of the community; and between nations. I invite him particularly to try its utility, policy, and success by the test of his-Beginning at home, and by the reign of Queen Mary; it was no doubt her hope to root out the Protestant religion by the horrid cruelties of which she was guilty, and to operate the exclusive establishment of the Catholic faith; yet after exciting insurrections which nearly cost her the throne, and rendering her name for ever execrable. Though the country might have the appearance of acquiescing, yet what has been the result? A few years overturned all she had done; the Protestant religion is now that of the great majority, and is the established church, whilst her tyrannical proceedings have attached a rooted hatred to her religious tenets, and have been visited on us Catholics for far more than ten generations.—Henry VIII., Edward VI,, Elizabeth, James I., Charles I. and II., King William, Anne, and George I., in different degrees, left no severities untried to annihilate Catholicism both here and in Ireland, yet though in balancing the wretched account of those persecutions,

as betwixt Catholics and Protestants in England, we have in number of reigns of persecution at least ten to one against us, and in number of years 280 of passive to 3 years of active oppression; yet we are still a tolerable number of Catholics here, and are in Ireland six out of seven; whilst the continuance of the system, even in its moderated degree, produces discontent, disaffection, and danger to the State.-Elizabeth and the Stuarts did all in their power to obliterate the Presbyterian religion: the re-action greatly contributed to the overthrow of the religion of the State, of the monarch, and of the monarchy itself. (3) Yet, notwithstanding the revival of that persecution at the Restoration, supported as it was by the influence of England and its Clergy during the reigns of Charles II., and James II., the Presbyterian religion has become the established religion in Scotland; whilst the subsequent abolition, in essentials, of this exclusive system between different classes of Protestants, has restored peace and unison to the two countries.-In Canada, we took, with some reluctance, in the very nick of time, the step of conceding by law all political rights to that conquered country. The benefits derived from it were immediate. In our arduous contest with our American colonies, we received the cordial support of that people. Can it be supposed, that if these rights had been denied them, they would not have joined the Americans? stead of this, they assisted us most efficiently, and though they were of French origin, and had not long been separated from the mother country; the French, notwithstanding their being masters at sea for a considerable period, thought it needless to make any attempt on their Here England found that one Catholic allegiance. hulf allegiance was worth more to her than thirteen whole allegianoes.

In France, persecution became the source of long and dreadful civil war, and numerous insurrections and mutual acts of the greatest barbarity; for no wars are so PART II.

(3) temp. Charles I.

passionate as those of conscience. Lewis XIV. used his most powerful arm to clear the country of Protestants, yet they are now there in numbers; and since the exclusive system has been laid aside, are so blended in peace and charity into one mass, that it becomes very difficult to ascertain who is Protestant and who is Catholic.

Hungary was to the House of Austria a most precarious possession whilst any religious distinctions existed,
but it became, on these being abolished, the steadiest
support of Maria Theresa, her asylum, and the means
of recovering her lost provinces.—The Levy en masse
of Catholic Silesia under Blucher, has rendered the same
service to Protestant Prussia. Who will believe, that if
they had been oppressed by exclusions, they would ever
have afforded their Sovereigns the same zealous assistance? Who in his senses will risk his life to remain a
Helot, a degraded and marked man? he could be no
worse off under the worst of governments.

To conclude a subject which I should feel little inclined to quit, if I could by repetition impress it more strongly, thinking it of the greatest importance to the happiness of the world, and more particularly so, under all circumstances, to that of my own country: I again invite my reader to cast his eyes over the page of history, and to examine the fallacy of the persecuting system, and the dreadful evils in its train. He will discern the mischief of those super-politicians, who calculate freedom of conscience by physical sttength or numerical power, making that which is the high concern of all to be enjoyed only by the strongest party, and thus subjecting faith and truth to policy, private and civil good to interest and monopoly, religion to government, and conscience to conveniency. He will see what a calm the admission of the single principle, that religious liberty is a civil right, would have produced; he will feel its excellence and its salutary consequences: what scenes of

war among nations, what civil contests and insurrections sink before you; what torrents of blocdshed in the field or on the scaffold, are dried up; religious differences lose the fuel which lights them up into a flame—the whole drops at once into peace and quiet;---'tis true the hand of ambition might have caused some misery, but it would have been bereft of one of its most powerful weapons, religious discord among citizens. There is an end of the religious wars in Bohemia, of the battles of Charles V., and of the thirty years' war in Germany; of the civil wars in France; the interference of Spain there and with England, the insurrections, mutual massacres, persecutions, and banishments of its citizens.-Spain no longer oppresses the Netherlands with the same efficacy. All Inquisitions, Courts of High Commission, and their cruelties vanish.—The improper interference of some Popes, and of all descriptions of the clergy in civil matters, is broken off.—Henry the Eighth loses part of his tyrannical enjoyments, Mary becomes a lamb, and Elizabeth ceases to cut up her Catholic subjects: the rebellions are at end; Scotland enjoys internal peace: the minds of the Stuarts might not have become so despotic, or their fate so lamentable. Persecution in all its shades ceases, and with it the motives for crime in many individuals, and the sufferings of those they oppress disappear. Vengeance is disarmed and Christian charity and good will reign triumphant.

We all, however, know how difficult it is to prevail, even on ourselves, to give due attention to what is either said or written on subjects which are contrary to our accustomed feelings and ways of thinking: impartiality and even fairness are scarcely to be obtained in politics, and still less so in religious matters; but I trust that our tender of the proof of manifest injustice will have its weight with good men, and that, at all events, they will not suffer their minds to be prepared to reject the principles of religious liberty without endeavouring to give the subject their serious consideration.—It is true that

the flag of No Popery has ceased to be the signal of destruction, and is now no more than a coarse proclamation of proscription; and we thank the country for having indignantly rejected it.* It is true that we have friends heedless of their own peril, and who are more zealous in our cause than ourselves; still I am convinced that, as Catholics, it is only by the progress of this principle of religious freedom that we may hope for liberation. It would be vain to expect to eradicate the strong prejudices which have been infused into the minds of all classes of Protestants from the dawn of their reason; they hate our tenets; they cannot easily be induced to take the necessary trouble to understand them, and many take all for granted that has been alleged against us.+

Respecting Catholic doctrines, a strange tissue of misrepresentation, varying from the subtile imputation to the most barefaced calumny, has, at first by keen design and now by habit, without intermission since the days of Elizabeth, been drawn with the greatest perseverance and industry; over the public mind, through every class of its instruction, from the tale of the deluded nurse, the very hornbook, up to the refined academic lecture; till it reaches the pulpit: and when the theologian has poured out all his gall, and the historian has exhausted all his exaggerations, suppressions, misconstructions, and reticences, the writer of Romance takes it up, and not contented with the real crimes and depravities, of which the course of ages must furnish so many examples, he tortures his imagination to devise crimes for imaginary priests and nons; at the same time carefully avoiding to mention any of those sublime characters, of which history is full, who actuated by true piety and religious principle and zeal, have devoted their fortunes

^{*} I trust we shall never lose sight of what we owe to the triumph of generous feelings over early prejudices, and the later the conviction, often the more sincere; nor should we dwell on those shades of opinion respecting us, which are discoverable among our friends, or find serious fault with them; but endeavour to convince them and remove their doubts and fears; because we must be certain that it is entirely owing to their thinking for themselves, that we have any support at all from Protestants .- In and out of Parliament they have, as I have said, shown themselves even more zealous than we are: they cannot obtain any personal advantage by us; and have adopted us with detriment, or at least with danger to their personal interests and pursuits, and to the quiet possession of their advantages in life. - I trust that this will never be forgetten, and that, even if we should obtain emancipation, there is not a Catholic either in England or in Ireland, that would do aught to displace any one Member who has voted for us .- Indeed, were Emancipation to take place, property would resume its usual course of influence, and very few Catholics would obtain seats in Parliament.

It is only great and charitable minds that can evercome early prejudice, or to whom it is irksome to take a bad opinion of others on credit and without inquiry; but we may hope that every individual who thinks at all, may become convinced that he has no more right to force his neighbour to adopt his opinion than his neighbour has to use compulsion with him; he may see the delusion, the nothingness of any political system that has not for its foundation and object the happiness of the subject; he may feel that oppression in any shape or shade is odious in itself; that religious liberty must produce quiet and safety to a nation, whilst persecution cannot fail in causing disunion and danger; that civil liberty is nothing more than doing equal justice to all, and religious liberty only the forbearance from using undue interference with others; and hence true toleration and charity in every mind will be deduced as a clear consequence. So predisposed, he will readily distinguish between principle and abuse; without so doing, every thing that is great and good in itself must be rejected, and the Christian religion itself must fall. If he gets better acquainted with the religion of his neighbours, he will find that it leads

and their whole existence to the offices of charity :-- thus on account of individual misconduct, they keep up the ball of prejudice and calumny against the principles of religion itself:-these must ever be pure and spotless, obligatory and distinct, in all persuasions, when not artfully blended with the crimes and vices of its prefessors.-To such persons we have a right to say, "the kind of religion you chuse to forge and invent for us, we reject; if there be such a one, we join with you in railing at it, others may have a claim to form such a sect, we have not, we are Catholics." For the warfare of imputation, ammunition is seldom wanting .- John Bull hunting down a Papist reminds me of the chace of the Baron Thonderdendronk, for which all the kinds of dogs of his farm-yard, however discordant and quarrelling at other times, were mustered to form the Pack : the high dignified, sullen Mastiff; the tenacious common Bull-dog; the deep-tongued, orange-tinged Blood hound, like those who are panting for the renewal of sanguinary proceedings; the black Terrier spitting fire, as from the pulpit; the lean, lank, wire-haired field preacher-like Greyhound; a couple of water Poodles; the village Cur with a yell, like that of No Popery, and even sometimes the Lady's Lap-dog joining in the cry; but the old Lion often turns and repels the attack, and his den is impenetrable.

PART 1L

to the same results to the country and to him, as his own. He is not inclined to renounce our free constitution on account of its having been perverted or misused by the power of particular Kings, or during the rage of popular fury, and this will snow him that a Catholic should not be required to give up the genuine principles of his religion on account of the ambitious conduct or mistaken zeal of any individuals, either Popes, or of the clergy or laity.—Much wrong has, no doubt, been done under pretence of religion, many have sought under its sacred name to forward their own worldly power, or to gratify their arbitrary minds, and that charity, which every sentence of the New Testament enjoins, has often been entirely lost sight of, even by persons of pious and religious feelings. But what is this to religion itself?

To conclude, we lament the past conduct of several Catholic governments, and that of many individuals, and regret that Protestant countries have failed in the same way;-To this we join our earnest request, that our country will now follow the brilliant example which the principal Sovereigns on the Continent, of all persuasions, as well as the Republics in America, have set us in matters relating to religious liberty. To use the words of the late Dr. Milner, "May we deplore and lay aside all past animosities; forget entirely the blameable misconduct of all parties and the injuries they have received, and henceforward vie only with one another in proving by our actions, which are the best followers of the precepts of charity given us in the code of Christianity which is common to both."-If we have to reproach each other with mutual injuries, it is clear that the worse we have been in those matters, the more decidedly is amendment necessary, and that by mutual forgiveness and future good offices, we should atone for whatever has been done amiss.

Letters to a Prebendary.

> What we claim is a clear stage and no favour, to be blended with the mass of our countrymen; that the

Constitution should be left to its natural course unhampered by those penal and excluding statutes which do not belong to it, and are adverse to its true spirit and ancient practice: that there may be an open course left for the concurrence of merit, and that the nation may have the selection and the advantage of the services of all; and acquire the best chance for perpetuity, by the removal of all just causes of discontent, and the consequent hearty union of all its subjects in one common interest and feeling for its welfare.

PART II.

HENRY HOWARD.

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APPENDIX.

I am desirous to specify some of the most remarkable instances of the gross perversion of justice and abuse of our free Institutions, which have occurred since the reign of Henry VIII., and if I chiefly select those which relate to my own family, connexions, and friends; it is because I am best informed on what relates to them.

See page 17—No. 16. TRIALS OF PERES BY A SELECTION OF PERES, INSTEAD OF BY THE WHOLE HOUSE. (1)—Edward Stafford, Duke of Buckingham, Hereditary High Constable of England, was I believe the first victim of such a Royal Commission. To this abuse, in his case, another cruelty was added, that of making his Brother-in-law President of the packed tribunal. His chief crime was being nearly connected with the throne, and his great estate: there was nothing attempted to be proved or alleged against him but some words, which, if proven, (which they were not.) would not have been sufficient authority for whipping a cat. By one of the most unjust sentences ever pronounced, he was executed and his estates confiscated.—This unjustifiable practice was continued to the end of Queen Elizabeth's reign.

Page 17—No. 17. BILLS OF ATTAINDER, AND EXECUTIONS WITHOUT TRIAL; (2) examination of witnesses or knowledge imparted to the
accused of the grounds of accusation. The Countess of Salisbury,
daughter of the Duke of Clarence, and the last of the line of the
Plantagenets, was without any trial or accusation made known to
her, or any opportunity given to her for defence, and with the opinions of the Judges in direct opposition to the proceeding, attainted
by Act of Parliament and executed, when she was upwards of
seventy years of age; with particular circumstances of brutal barbarity. Sixteen other persons were then executed with as little
formality. See Burnet's Reformation and State Trials.

(I) Howell's State Trials, vol. 1. A.1522.

(?) Hen. VIII. I549; See Burnet & Howell.

See page 11.

^{*} Before I proceed further, I must apologize for my ignorance in my note of page 11; as I now understand that if Edward I. or Henry V. did come to life again, they might be made tide-waiters. As owing to some jarring in the service of the Excise or Customs, between England and Ireland, an Act was lately passed to enable English as well as Irish Catholics to be so employed: but from all other places of trust or profit in the civil line we are excluded by law.

8**2**

APPENDIX.

Same page and No. Thomas Cromwell, Earl of Essex, the King's Vicar General, was also condemned unheard, attainted and executed, after having on many occasions been the mover of the same iniquitous proceedings respecting others, and a great promoter of Henry's tyranny.

(3) Howell's State Trials Burnet, Hu e.

Same page and No.-Thomas Duke of Norfolk, Treasurer and High Admiral, (3) had rendered the most eminent services to the country, in war and in peace, both in the military, naval, and civil department. He led, under his father, the main battle at Flodden Field, and to him the success of that day was chiefly owing : next to his brother Edward, he was also the best sea-officer of the time, he had cleared the seas both of the French and Scottish navies: he had, without bloodshed, quieted the rebellion in the north, and had conducted many intricate negotiations with signal ability and success: his chief fault was having been too subservient to the King's plans and wishes. He was attainted in 1546, without a word having been proved against him, or indeed any cause being assigned to him, or any hearing allowed, or any opportunity being given to him of knowing what he was accused of .- Henry Earl of Surrey, his son, had greatly distinguished himself, was the best poet, and the most accomplished gentleman of his age. A sham trial indeed took place, but whoever reads it will see that there was no guilt even in the frivolous and unproven charges brought against him. The chief accusation was that he had borne the arms of Edward the Confessor, who, by the by, never had any arms; those had however been allotted to him by the heralds. He was executed. Burnet says, that "he and his father were designed to be destroyed upon reasons of State:" such reasons as those for which Robespierre immolated his victims, aristocracy of birth, talent, and property; with this difference, that here the Peers and Commons became parties to the injustice. The Duke fortunately escaped, by the death of the King the night before his intended execution; but he remained a prisoner during the whole of Edward the Sixth's reign.

(4) Parl. Hist.

Page 18, No. 27.—Imprisonments for what was no caime, and without trainl. (4) Lord Thomas Howard, a younger son of the same Duke, "was, by a bill brought into the House of Lords the last day of the Parliament (28th Henry VIII.) by the Charcellor, read thrice in one day, and passed the same day in the Commons," attainted for having paid his addresses to the Lady Margt. Douglas, daughter of the Queen of Scots by her first husband: this was no crime whatever in law, but he was committed to the Tower and remained prisoner to his death.

Lady Catherine Grey, eister to Lady Jane Grey, (5) was imprisent for life by Queen Elizabeth, for having married the son of the Earl of Hertford; she died after nine years' confinement.

Lady Arabella Stewart, (6) imprisoned and confined at times in the same manner, by Elizabeth, and James I.

Lord William Heward, of Naworth Castle, (7) twice, by his own account, close prisoner in the Tower, without knowing the cause: a close prisoner had not access to any one, nor books nor pen allowed. He was afterwards (temp. James I.) Lord Warden of the Marches. To this list numbers may be added, who died in prison, and were never brought to trial; amongst these, the Archbishep of York, and many Bishops, and numbers of the Clergy who were deprived by Queen Elizabeth, and Priests without end. Mary Queen of Scots may also be added to the list.

Page 17, No. 15.—THE FREQUENT USE OF TORTURE TO OBTAIN EVIDENCE. (8) If any one will read the trial of Thomas Duke of Norfolk, in 1572, with an order (given in Ellis's Original Letters) from Queen Elizabeth, in Lord Burleigh's hand-writing, to put the Duke's servant, Barker, and his solicitor, Lawrence Banestre, (9) to the rack, to obtain evidence against him,—he will find, on comparing dates, that four persons in the first stations under the crown on their examination in Court on their oaths, respecting this racking, denied that which they had been active parties to: and on the whole of this trial it will appear by what unworthy shifts, illegal contrivances, suppression of facts, and forced inferences, the Duke lost his life, and the family his personal and unsettled estates.—The persons, in this and other instances, who were put to the torture, were never tried, and their fate is unknown.

APPENDIX.

(5) See Peerage in 3 vols. page 103, and Aspen's Genealogies.

(6) Hume and all historians.

(7) Lord Wm. Howard's Manuscripts.

(8) State
Trials, vol 1.,
p. 992; Ellia's
Orig. Letters,
vol. II., p. 261.
Murdin's Bur
leigh papers.
(9) Echard,
p. 822; and
Lord Wm.
Howard's
Manuscripts.

(14) Ibid I97.

^{*} There may have been brutal and ferocious acts of cruelty, like those attributed to Bishop Bonner, used at times towards persons accused, but I am inclined to believe that torture, as a system, was not adopted by the government before the reign of Queen Elizabeth, and fortunately it did not last much longer: in this I think I am supported by Blackstone's statement. (10) I cannot believe it possible that the High Admiral, Lord Thomas Seymour, was put to the rack by the Council of his nephew Edward VI.(11) Daniel Barbaro, then Ambassador from Venice, (12) reports to his government, that it is the boast in England, that torture is never used; this he would not have said had it been otherwise.—In Elizabeth's reign it was frequently applied; there are instances of examinations in Bacon's Letters, and many in Bridgewater's Concertatio, (15) of priests put to the rack, in the presence of the Chancellor, of Sir Francis Walsingham, of the Chief Justice, Attorney-General, and others of the Privy Council. A dispute on a theological point is proposed to a priest of the name of Bennett whilst he is hanging up by the wrists, upon which he suggests to the torturers that in fairness the other disputant should, as usual in the schools, be placed opposite to him in the same condition, that they might dispute on equal terms. (14)—Norton, the rackmaster, is stated to have boasted of his skill in drawing out the

⁽¹⁰⁾ Blackstone's Commentaries, vol. iv., p. 320. (11) State Trials, vol. 1. (12) Relatic ne del Mag. Drn. Barbaco, drc. 1551, Greystock MSS. (13) Concertatio, printed at Treves, 1589, pages 57, 71, 73, 74, 88, 176, 189, 186. 189, 48c.

The fate of Philip Earl of Arundel, the Duke's son, was attended

APPENDIX.

with circumstances-of more refined inhumanity, and the conduct of Queen Elizabeth towards his lady was most peculiarly unworthy. In 1588, without cause assigned, he received an order to confine himself to Arundel House, in London, where he remained four months; and at the same time his Lady (who was the co-heiress of the Lords Dacre of Gillsland and Greystoke) was placed under the custody of Sir Thomas Shirley, in Sussex, and there remained more than twelve menths; -it appears that though she was an excellent woman, Elizabeth had taken a strong dislike to her, and done all in her power to estrange her husband from her.-These preceedings, and the jealousy shown him, induced the Earl to write in 1585, a letter full of loyalty and good wishes to the Queen; in which he says,-" I saw it was resolved by the course of this dealing, that how clear or manifest soever mine innocency was, my adversaries should receive the triumph of the victory in having what they would; no man charging me with the least offence, nor my conscience being able to accuse me of the smallest fault,-or hearing any just cause of your Majesties hard conceit, or any good colour why I was committed. Wherefore, after I had escaped these storms, I began to call to remembrance the heavy sentence which had lighted upon those three of mine ancestors who immediately went before me: the first being my great grandfather, who was so free from all suspition and show of any fault, as because they had no colour of matter to bring him to his answer, they attainted him by Act of Parliament without ever calling him to an answer: the second being my grandfather, was brought to his trial and condemned for such trifles as amazed the standers by: the last being my father,—howsoever he might unwittingly or unwillingly be drawn into greater danger than himself did either see or imagin, yet all his actions did plainly declare, and his greatest enimies must of necessity confess, that he never carry'd any disloyal mind to your Majesty, nor intended any undutiful act to his country. And when I had in this sort both fully and throughly considered the fortune of those three which were past, I called to mind mine own danger which was present; and did think it not impossible, by the show of this rough beginning, but I might as well follow them in their

Stowe, 702; & MSS. at Norfolk House.

See page 17, No. 17; Thos-D. of Norfolk

See Page 17, No. 17; Henry Earl of Surrey. See Page 17, No. 15; Thos. D. of Norfolk.

(15) Concer-

frame of the priest Alexander Briant, to a foot longer than its natural length. (15) The object in using this engine to stretch the body, seems to have been to induce the patient to make an equal stretch of conscience; for whenever he showed the required elasticity of conscience, his release was certain from present suffering and future prosecution, and hopes were given of reward and advancement.

the greatness of mine enimies power to overthrow me, and in the weakness of myself, no ability to defend me-how narrowly my life was sought, and how easily your Majesty was drawn into a suspitious and hard opinion of my ancestors-and how mine innocency was no sufficient warrant to protect myself-and besides was charged by your Council to be of that religion which they accounted odious and dangerous to the State; remembering what a watchful and jealous eye was carry'd over all those who were known to be recusants; and how all their lodgings were continually searched, and to how great danger they were subject, if a Jesuit or Seminary Priest was found within their houses; in what continual danger I was if I remained here in England, by the laws heretofore established and by a new act lately made-I did think it the safest way to depart out of the realm,* and abide in some other place, where I might live without danger of my conscience, without offence to your Majesty, without this servil abjection to mine enemies, and without the dayly peril to my life; being of that religion which

but were afterwards released. In the year 1588, when the Catholics in the Tower and the Earl were allowed "more liberty than he had ever had either before or after," an account was spread, that "a sudden massacre of them all was intended on the first landing of the Spaniards; and this coming to the Earl's ear, out of his piety he judged it necessary that all Catholics should forthwith apply themselves to prayer, either for the avoiding of that danger, or for the better preparing themselves thereto." Accordingly a priest of Queen Mary's reign, of the name of Bennet, offered up the mass to obtain the protection of Heaven. Bennet was afterwards taken before the council; and in his letter to Lord Arundel, he states, that " with many thundering threats of

your Majesty doth detest, and of which you are most jealous and doubtfull." He then goes on, assuring the Queen of his fidelity and personal attachment; but all this was of no avail in a Tudor Orders were given to intercept him in his passage—he was committed a close prisoner to the Tower in the year 1585, and there remained till his death (which apparently was caused by poison) in 1595, without being allowed to see either his wife, children, or any friend, and generally attended by some person appointed to report every thing he did or said .- His brother, Lord William Howard, (ancestor to Lord Carlisle and myself,) and his sister, were likewise committed close prisoners to the Tower, without any known cause,

> Maruscript life of the Earl of Arundel at Norfolk House.

APPENDIX.

^{*} By the Great Charter he had a right to do so.

APPENDIX-

returning to the Tower, torments, and death, with a promise of life and speedy liberty, I confessed every thing that seemed to content their humour; and with a guilty, fearful, unquiet, and most tormented conscience, I confessed that you moved me to say a mass of the Holy Gheet for the good success of the Spanish fleet,-for which unjust confession, or rather accusation, I do, again and again, and so to my life's end, most instantly crave God's pardon and yours:" and declares himself ready, before God and man, to declare the accusation "most unjust, and done only for fear of the Tower, torments, and death." The Earl was, however, arraigned; and notwithstanding the production of this letter, was on this evidence condemned for treason by a commission of Peers, as in those times they, I believe, never once failed in doing,-and for a long time he expected to be brought forth for execution. There is an account of his funeral, which appears to have cost the Queen 40s., the clergyman declining to make use of the usual service.

Lansdowne MSS., & Dallaway's Sussex, vol. II., p.145.

Life of the Countess of Arundel, a MS. at Norfolk House.

As for the Countess of Arundel, his lady, during her confinement in Sussex, first mentioned she was "so streightly confined and watched that none could either serve or have access to her but such as were approved by Sir Thomas Shirley. After the committal of the Earl, by the Star Chamber, to the Tower, the 'Countess being great with child, liv'd at a hired house, at Romford; and the Queen having intelligence that the Lady Mary Sackvil (her sister in law) was gon thither to pay her a visit, sent forthwith a messenger to that lady, with express command not to stay there any more than that night.' And when soone after the Countess was delivered of her son, and earnestly desired that the Earl her husband (who was then close prisoner in the Tower) might be informed of it, it would by no means be granted; but after some time, by other means, he was told she was brought to bed of another daughter, one may easily guess he was thus misinformed to increase his affliction. The Queen, some time after that, coming either for pleasure or curiosity to Arundel House, and espying on the glass of one of the windows a sentence written with a diamond, insinuating hopes of future better fortune, with her own hand she writ underneath another sentence expressing much passion and disdain." After she had obtained leave to reside at Arundel House, she was always ordered to leave it whenever the Queen came to Somerset House, and could never obtain permission to present any petition to the Queen in person. "After the Earl her husband's condemnation, all her goods were seized for the Queen; they left her nothing but the beds on which herself and a few servants were to take their rest, and those only lent her for a time : she endeavoured to buy her own coach at the rate it was valued by the prizers of her goods; but could not obtain so reasonable a courtesy; and thus when business required was forced to go on foot, and for a considerable time had no allowance. At length, after much suite, all she could obtain from the Queen, for all manner of occasions, was only eight pounds a week, and that many times so ill payed that she was often compelled to borrow and make hard shifts to procure necessary provisions. After the Earl's death, she should have entered into the possession of those lands which were her own inheritance, and also some of the Earl's assured to her by way of jointure; (all which the Queen had seized;) yet, contrary to all justice, she was forced with great charge and trouble to sue for them all, and was compelled finally to pay, by way of composition, well nigh £10,000."

Page 18, No. 19 .- Persons executed for crimes not capital BY LAW.-Sir Thomas More, (16) condemned for denying the King's supremacy. He had prudently observed strict silence on the subject of the act, and having retired from office the oath could not legally be required of him; his own words at the trial will best explain this subject :- "The charge against me is, that being a prisoner and twice examined, I would not out of a malignant and traiterous mind tell them my opinion whether the King was supreme head of the Church or not; but I confessed that I had nothing to do with the act, because I had no benefice in the Church, and never had said or done any thing against it; neither can one word or action of mine be alleged or produced to make me culpable, nor can this statute or any other law in the world punish any man for his silence, seeing they can do no more than punish words or deeds-'tis God alone that is the judge of the secrets of our hearts."-To this the Attorney General made answer :-- "Sir Thomas, though we have not one word or deed of yours to object against you, yet we have your silence, which is an evident sign of the malice of year heart." He was executed for treason, though the law as it then stood did not subject him to the oath, and then made the alleged crime punish-

Page 18, No. 21.—Juries intimidated to find the accused guilty. (17) In the same way as Sir Thomas More was treated were three Priors of the Carthusians, who were executed for treason with great barbarity for the same offence, at that time not capital. Strype, in his Annals, says—"That the jury demur'd, alleging that they could not bring in such holy fathers guilty as malefactors, which, when Cromwell heard, he sent them word immediately that if they found them not guilty, they should suffer the death of malefactors themselves."—Strype's Annals, and Burnet's Reformation.

able by imprisonment and confiscation of goods, and not by death.

APPENDIX.

(16) Howell's State Trials, vol. I. Henry VIIL, 1535.

(17) 1535. Strype, Bur(18) Burnet's Reformation, and State Trials.

(I9) Ellis's Orig. Letters, vol. II., p. 76.

(?0) 26th Henry VIII.

(2I) 34th Henry VIII.

Page 18, No. 20.—PRISONERS STARVED TO DEATH. (18) Burnet says-" Ten other Carthusian Monks were starved to death in prison, where nine of them died, and the tenth was executed in August." In Ellis's original letters, the fate of these monks is thus reported in a letter to Lord Cromwell.(19) "They be almost dispeched by th' and of God, as may apper to you by this byll inclosed: ther be departed 5; [naming them;] there be even at the poynt of dethe, 2; there be sycke, 2; one is hole." It appears that 59 persons were executed for denying the supremacy. The statute of 1535,(20, making King Henry the supreme head of the church, gave him "all authority to reform, &c., all errors, heresies, &c., most to the pleasure of Almighty God:" and the act of the 34th of his reign, (21) made it heresy to reject the doctrines which he had declared to be orthodox, and also to maintain any opinion contrary to such doctrines as he might in the future publish to be such; thus at once making him infallible: nor was he less jealous of this new title of Pontifex maximus, than Tiberius or Nero might have been in former times, though apparently as little qualified as those Emperors to be placed at the head of the Church of Christ. Men of arbitrary minds are not content with the dominion over the body; but, as an increase of their darling power, aim also at having it over the soul, however much that may be beyond their reach. Those persecuting Emperors also reproached the Christians with being imperfect subjects; and to me it is clear that though the honour of the Gods, and the preservation of the religion of the state, were the ostensible pretexts for persecution, yet the real cabinet motive was

(22) Vol. I. page 243, &c. divided allegiance.

(23) Carlton's Ambassy of James I. to the States; and fr. Brandt history of the Reformation.

Nov. 13, 1618-

Page 59, No. 100.—Execution of Barnevelt and Imprisonment or Grotius.—Benger's (**5) Memoirs of the Queen of Bohemia contain much information on this subject, taken from original documents.(**23) It appears that Barnevelt was not an Arminian, but only protected them, "because all sects ought to be tolerated." For this he was condemned, but his real crime was opposing Maurice Prince of Orange in his views of sovereignty, which James I. supported: on the scaffold his last words were, "I die for my zeal to preserve your liberties." The synod of Dordrect, convened through the influence of those Princes to accomplish that end, consisted of English, French, Palatine, and Batavian divines, and none ever

^{*} Calvis, in his Commentary on the 13th v., 17th ch. of Amos, writes: "Those who first raised Henry King of England so high, were certainly very inconsiderate men, when they gave him the supreme power over every thing. This has always wounded me much: for they were blasphemers when they called him the supreme head of the Church under Christ, that was really too much."

showed themselves more intolerant. Carlton Bishop of Llandaff, (24) Hall Dean of Worcester, with Samuel Ward and John Davenant, Doctors of Divinity, were the deputies of James I. to the synod; and, what is remarkable, they enforced in Holland conformity to the doctrines and church discipline of Calvin, which were not their own. Many of the Arminian ministers (25) were committed to the Rasp House of Amsterdam, and during "many years these ill-fated non-conformists being driven from Holland, as the Hugenots afterwards were from France, wandered in miserable exile, and in 1629 planted a colony in Holstein, to which they introduced their national habits of order, industry, and sobriety."

APPENDIX. (24) Grimston, page 1383.

(25) Benger, 352.

Hume and Fehard, &c. 1678 to 1681.

Page 32, No. 54.—OATES' PLOT, to which William Howard, Lord Stafford, was a prominent victim. On this subject I am prepared to say much, but shall refrain, and only refer I'rotestants to their own historians. They will, without doubt, lament sincerely, as the Catholic does feelingly, the delusion (to use the mildest word that occurs) which for nearly four years blinded this nation: they will see, in all the proceedings, the same calumnies and imputations which are sometimes now in use; and out of this profane source they will see arise in garments clotted with innocent blood, that which is by some styled the Palladium of England—the Test Act.* And if those transactions do not appear to them to call for atonement and retribution, instead of a continuation of oppression, all that I can say is that my ideas of justice run in a different course from theirs.*

The Royal Marriage Act, passed in 1772,(26) is a great deviation from our Constitution; it prohibits any descendant of George II.,

(26) See Parl. History, 1772, page 384, &c.

Hume, vol vi. page 209.

A. I680; Hume, &c.

I6**2**5.

^{*} The Act of Indemnity neutralises in most cases this oppressive law, but this being only temporary, it exposes the subject to the caprice of the legislature and to the casual effects of popular clamour, or to accidents which may prevent its being enacted in due time, nor does it alter the law, it only proves its mischievous absurdities.

[†] Hume writes, "Had not men expected with certainty the legal punishment of the Catholics" (so much had the people been excited) "they would have been exposed to the hazard of an universal massacre." The Commons also brought in a bill to bauish Catholics, which Lewis XIV., as all intolerants are as quick at a hint as they are at an imputation, would not fail in availing himself of, as a favourable precedent. He soon after was guilty of the revocation of the edict of Nantz (its marrow may possibly be found in the breach of the treaty of Limerick).—James II. had however so far the good sense to give his protection and assistance to the injured exiles.—Before I quit this subject, we must beg leave to disclaim the slightest connection with the Chief Justices, Scroggs and Jefferies. The reading of the trials will convince very one that we never had more cruel, prejudiced, or more bigoted enemies:—we surrender them entirely to the ascendancy.—With Colonel Kirke we also decline all association, he was the first to leave James in the lurch and became a favoured commander under King William.

APPENDIX.

male or female, from marrying until they attain the age of twentyfive, without the consent of the Sovereign; even then, if Parliament complies with the views of the Court, it may be prevented. Thus it might happen, in the exercise of so new and so odious a prerogative, that a nephew or a niece may prevent an uncle or aunt from marrying, even the case may occur of a son or daughter exercising the same power over their parents; and thus whilst in our clergy the voluntary vow of celibacy is so much reprobated, the members of the royal family are, however unwilling, compelled to it by law. This subject is particularly well treated in the protest of some of the Peers on that occasion :-- "We conceive the right of conferring a discretionary power of prohibiting marriages to be above the reach of any legislature, as contrary to the original inherent rights of · human nature, which as they are not derived from or held under civil laws, by no civil laws whatever can they be taken away. To disable a man during his whole life from contracting marriage, or making his power of contracting such marriage dependent neither on his own choice nor upon any fixed rule of law, but on the arbitrary will of any man, or set of men, is exceeding the power permitted by the Divine Providence to human legislators; it is directly against the earliest command given by God to mankind; contrary to right of domestic society and comfort, and to the desire of lawful posterity; the first and best of instincts planted in us by the author of our nature, and utterly incompatible with all religion, natural and revealed; and therefore a mere act of power, having neither the nature nor obligation of law."

Hardwicke papers, vol. I. page 446.

Page 19, No. 30 .- Persecution turned into an impure SOURCE OF REVENUE TO THE CROWN .- Queen Elizabeth is the inventor of this system of confiscation, fines, and compoundings for not attending public worship, which I believe never existed in any other country: this became a considerable source of revenue: James I. reckons it a net income of £36,000 per annum, a large sum in those times.—There is a picture in the house of my friend Mr. Townley, at Townley, in Lancashire, representing Mr. John Townley, one of his ancestors, which gives one a tolerable idea of the life of a Catholic during those times; the inscription in black letter characters, concealed under another tablet, is as follows :---"This John, about the 6 or 7 yere of her Majestie yt now is for professing ye apostolicall Catholick romaine faith, was imprisoned first at Chester Castell, then sent to Marshalsea, then to Yorke Castell, then to the Blockhouses in Hull, then to Gatehouse in Westminster, then to Manchester, then to Broughton in Oxforthshire, then twice to Elye in Cambridgshire, and so now of 73 yeares old and

blinds is bounds to appears and to keps with in five miles of Townley his house, who hath since the statute of 230. paid into ye Exchequer £XX ye mounth & doth still, yt there is paid allready above five £M.—1601."

My ancestor, Colonel Sir Francis Howard, who sold two estates in the county of Durham⁽²⁷⁾ to raise and maintain a regiment of 400 horse for the service of Charles I.,⁽²⁸⁾ and lost his brother, his eldest son, and two nephews in the field, had his estate confiscated for his recusancy,⁽²⁹⁾ and I have documents respecting fines paid, for the same cause, by his son who died in 1709.

Other penal laws to which we were subject were peculiarly humiliating and ungentlemanlike, as they affected all those pursuits and enjoyments to which English gentlemen are so partial. one could, by law, (30) go more than five miles from home, or possess a horse worth more than £5. Whether this was intended to give them a better chance of breaking their necks, and thus putting them out of misery, I know not; but at all events, they could scarcely without breach of law take a ride, much less join in a fox chace, or go to a race. Every Catholic gentleman was placed in this irksome state of entire dependence on the good Remour, liberality, and forbearance of his neighbours; and accordingly I have heard from my father that great court was usually paid to the parson and neighbouring magistrates. - There are many instances even in later times of those odious laws being enforced. Sir Henry Lawson, of Brough, has in his possession a licence from four magistrates and a deputylieutenant, to his grandfather Mr. Thomas Maire, of Lartington, in 1696, "to travel into the county of Oxford, being to court a young lady there; he having taken his eath before us that that is the true cause of his journey thither." To return with his bride there is another licence signed by four of the Privy Council.-Mr. Townley of Townley's great grandfather, Charles Townley, had a licence for a similar object. Mr. Maire also obtained a licence in 1705, signed by five of the Privy Council, to keep six horses for coach and husbandry, two brood mares, and three saddle horses; and Mr. Henry Lawson had a similar authority to go to London for two months on business. Even as late as the year 1770, Sir William Stanley, who died a few years ago, had his four carrriage horses claimed by a clergyman, (a dignitary of the Church,) who tendered his coachman a bank note of twenty pounds, and demanded their delivery to him, as the property of a professed Papist, and worth more than £5 each. Sir William, on refusal, was indicted; but the Grand Jury threw out the bill, on the grounds that a bank note was not a legal tender of money. The father of the late Lord

appendix,

(27) Nesham and Brereton, value about £3000 per an. (22) Original Commission at Corby.

(29) The documents at Corby.

(30) See Parnell's Penal Laws APPENDIX.

Petre told me that before the year 1778, a person shot through his chrubberies up to his very door; and on his remonstrance, said, "No partridges, my Lord, no priest."—On canvassing an old freeman of Carlisle, for Mr. Curwen, within my own manor, in 1786, I was told by him, though he was nearly a pauper, that though he would give me his vote, it would not be creditable for him to be seen going into Carlisle with a Papist. Such were the effects and feelings of degradation infused by such laws.

See Protest, April 21, 1768. Fo

CATHOLIC PEERS are undoubtedly more positively aggrieved than we are: in this respect the protest of 23 Lords, on the bill for their exclusion, holds most forcibly, true English constitutional language. "Their privilege," say they, "is held by birth and right so inherent and inseparable from them, that nothing can take it away but what by the law of the land must withal take away their lives and corrupt their blood." In my opinion there was quite as much right and true authority to take their estates, as to attach a novel coudition and requisite to their peerage; -this is evidently an unconstitutional stretch of power. They, however, with us, meet with the same damping effects of the penal laws at every turn, an extinguisher on every fair object of ambition, hope, or aim at distinction; every one passing by us on the road of life, whatever may be the merit or natural advantages of the individual. - I hope it will not be attributed to selfishness, if I here state something of my own case, which in so many respects resembles that of other Catholics. We were all obliged before 1778 to seek for education abroad, and consequently seldom saw home or parents for 6 or 8 years. The army being my choice, I did not see either for more than 3 days during eleven years. I was sent to the Teresian Academy at Vienna; but neither my father, his relatives, nor the kind endeavours of that excellent gentleman Sir Robert Murray Keith, our ambassador, under whose eye I had been for four years, could obtain leave for me to serve in our army: I even, in 1779, offered to serve as a volunteer in America, but did not receive any encouragement. An intimacy with Prince Charles of Mecklinburg, (the Queen's brother,) who commanded the Hanoverian division of guards, gave me hopes of success; but it seems that it was not thought right, and might produce jealousy, to introduce an English Catholic into that service : I believe none ever obtained admission into it. In 1783, the late Duke of Norfolk tried to obtain for me admission into the German part of the military establishment of his Royal Highness the Duke At last I had to give up my favourite object :- thus the best part of my life had passed away in unavailing attempts; and when later I endeavoured, through the kind offices of Sir George

1786.

Howard, to procure a commission for a very fine young man, my brother, I found it still inadmissible. In the hope of more favourable times, he entered into the Sardinian service; but there, in a small village in Piedmont, was carried off by a fever, without having a single Englishman near him. I believe that Mr. Thomas Heneage was the first English Catholic admitted into the regulars. (31) A seat in Parliament, in my neighbourhood, was offered to me in a very flattering manner, with other advantages, which the laws forced me reluctantly to decline. Like other Catholic gentlemen,* when the laws respecting us began to be relaxed in their execution, I served in the militia, went to Ireland, and afterwards, by the friendship of many distinguished gentlemen of this county, who placed themselves under my command, I formed a volunteer. corps, (32) and we served till peace broke us up. Such par force has been my inefficient life. We then served under the risk of heavy penalties and fines; for till lately, I do not believe that a Catholic could legally even be a corporal. We owe, if not to the suggestion, at least to the approbation of the late Duke of York, our admission to all ranks both in the army and navy, and also an impartial share in the miltary commissions issued since that time. Well does the country appreciate the excellent organization of the army, the impartiality, the freedom from political influence and vindictive feelings with which he exercised his high functions, as well as the truthfulness, sincerity, and urbanity of his mind. If we had feelingly to lament the opposition he gave to our claims, I could not help indulging the hope that the goodness of his heart, and the calm view of worldly concerns which his lamented sufferings, and the charitable disposition which sickness (fortunately for us all) promotes, might have induced that illustrious personage to see our situation with a more sympathising mind, and incline him hereafter not to assist in punishing those who do what they think right, though their opinions might not in his judgment be so; and that, as I have said, he might have seen the delusion, the nothingness, and the mischief of any system of politicians, which has not for its basis the happiness and union of the governed. On these grounds, notwithstanding conflicting interests, my humble vows were offered for his preservation, and I now pay the tribute of sorrow to his loss.

Finally, I must avow that it is not a trifling humiliation to me that I should now sit writing and interceding for rights which are APPENDIX.

(31) By the late Earl of Bridgwater.

I794.

1799.

(32) The Cumberland Rangers, Company of Infantry trained as rifle-men, and a troop.

^{*} Lord Petre, at the same period, also raised a volunteer Battalion of Infantry, and proposed that his son should command it, but his Majesty, aware by his own personal knowledge that Mr. Petre was a Catholic, from having honoured Thorndon with a visit, judged that he could not, contrary to law, receive their recommendation.

APPENDIX.

evidently in justice as much mine, as they are those I am addressing. It is miserable to be thus placed within the power of others, and to be made a beggar of; the very pleading of my cause is to me a revolting nuisance.—I can easily account for the irritation of a high spirited nation like the Irish, and at times have experienced, through the workings of my own breast, what it might lead to, if it were not checked by the feeling of the paramount duty which we owe to our country, in spite of wrongs and oppression. Be my lot what it may, I join in the prayer of Fra Paolo for his country—

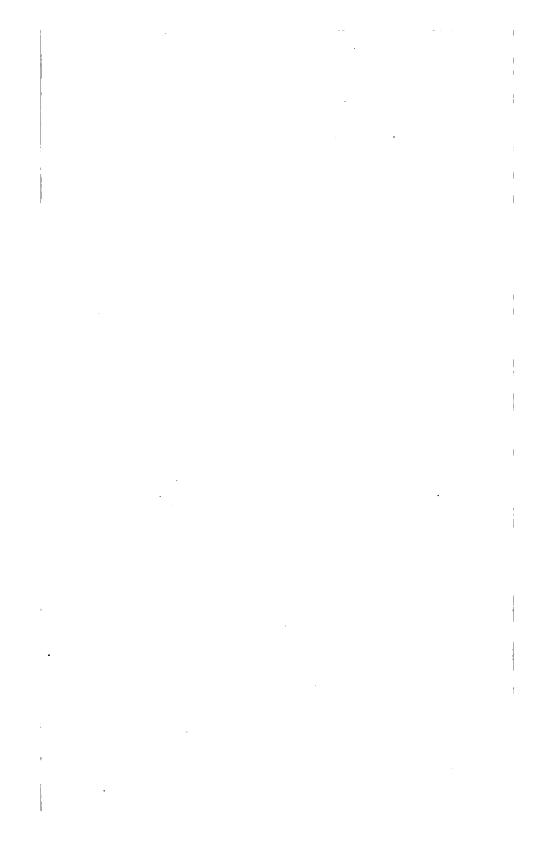
Bsto Perpetua.

HENRY HOWARD.

Corby Castle, 16th January, 1827.

POSTSCRIPT.

Since the first parts of these Historical References went to the press, and this last part was nearly completed, I have studied Lord Nugent's statement of our claims, and Mr. Wise's Address from the Catholics of Ireland. My first impulse was to suppress what I have written, and probably I had done wisely to give way to it;—it now strikes me that what I write may be considered merely as a collection of facts, which have probably, under the influence of different doctrines and education, led those gentlemen to the same results. I am happy to see what I mean so much more clearly and energetically expressed; and I hope that those excellent productions will have a due effect on the public. With the view before stated, I let mine go forth.



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